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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO
MONDAY
FEBRUARY 20, 1950.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN

HAROLD ADAMS INNIS - COMMISSIONER

HENRY FORBES ANGUS - COMMISSIONER

G. R. Hunter
Secretary

P. L. Belcourt
Asst. Secretary

COUNSEL APPEARING:-

F.M. Covert, K.C. G.C. Desmarais, K.C.	Royal Commission on Transportation
A.H. Hart	Canadian National Railways
C.F.H. Carson, K.C. F.C.S. Evans, K.C. I.D. Sinclair	Canadian Pacific Railway
C.D. Shepard	Province of Manitoba
M.A. MacPherson K.C.	Province of Saskatchewan
J.J. Frawley, K.C.	Province of Alberta
F.D. Smith, K.C.	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade.
J. Paul Barry	Province of New Brunswick
C.W. Brazier	Province of British Columbia
F.R. Hume M.L. Rapoport	Canadian Automotive Transportation Association

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Ottawa, Ontario,
Monday, February 20, 1950

MORNING SESSION

---The Commission met at 10.30 a.m.

C. E. JEFFERSON, RECALLED

CROSS-EXAMINATION BY MR. SHEPARD (Cont'd)

Q. Mr. Jefferson, during your evidence Friday afternoon I think you made reference to the fact that automobiles were being shipped by car from Windsor through to Winnipeg and Regina?

A. Yes, sir.

Q. I wondered if you had any details on those movements?

A. As to the volume?

Q. Yes?

A. No, sir.

Q. I am advised that if there were any, they were perhaps so few that they really would not be counted to any extent?

A. I don't know what the movements amounted to, but I saw three or four articles in the newspapers and pictures of the carriers that carried the automobiles.

Q. We were discussing at page 57 of Part I of the Canadian Pacific submission, paragraph 38, dealing with greater flexibility and freedom to the railways, and we had fairly well finished what I had in mind asking you about that paragraph. I just wished to ask one further question, Mr. Jefferson; would it be your feeling that it would be preferable, in the interest of the C.P.R. as well as the interests of Canada, to leave rate making more or less up to the railways themselves?

A. Well, I think rate making should be left to the

railways as it is to-day, subject to review by the Board on complaint from any interested party.

Q. And the level of rates, you feel, should be primarily a railway matter?

A. Yes.

THE CHAIRMAN: Q. That is subject to the ceiling placed by the Board?

A. Yes, sir.

MR. SHEPARD: Q. Then, Mr. Jefferson, about two-thirds of the way down page 57, under paragraph with sub-letter (a) you refer to the protection provided in the Railway Act for just and reasonable rates; you refer to the so-called maximum or standard tariffs. I want to ask you if you had a figure as to the percentage of traffic moving on the maximum or standard tariffs?

A. I haven't any figures here, but it is very small.

Q. As I recall the evidence in the 20 per cent case, I think it was something in the neighbourhood of 16 per cent?

MR. EVANS: No.

THE WITNESS: The standard mileage rate, it would be less than that. I would put it this way: it would be less than 5 per cent.

MR. SHEPARD: I am thinking of the class rates.

MR. EVANS: You are thinking of "the test days" at 16 per cent.

THE CHAIRMAN: What is that?

MR. SHEPARD: My recollection having been refreshed by my friend Mr. Evans, that evidence of 16 per cent referred to traffic moving at the competitive rates.

THE WITNESS: Not the traffic, but the revenue.

THE CHAIRMAN: Derived from traffic at competitive rates?

MR. SHEPARD: That is correct.

THE CHAIRMAN: I thought you were asking the witness about the percentage of traffic carried on standard rates.

MR. SHEPARD: That is what I was asking him. Mr. Jefferson told me, I think, that it was about 2 per cent.

Q. Is that right, Mr. Jefferson?

A. I haven't got the exact figure here, but I would say from a revenue basis it would be less than 5 per cent.

THE CHAIRMAN: Q. Could you tell us about where the standard rates are made applicable?

A. The standard mileage rates are applicable all over the railway system.

Q. I do not mean that. Where is the 5 per cent from?

A. Do you mean where they are applied in practice?

Q. Yes, that is what I mean.

A. They are applied in practice -- take eastern Canada, if you will, the Ontario and Quebec territory -- we have town tariff rates between certain distributing points for all points on the railway, but the town tariff rates are not exceeded. Where the standard mileage rates become lower than the town tariff rates they apply, and between local points in the east standard mileage applies. What I mean by "local points" is like very small points on the railway. In western Canada the same situation has existed: the standard mileage rate applies where distributing rates there are not lower; that would be between a lot of points, but in volume of traffic it would be small.

Q. In these points between which you make standard rates apply is there any difference according to commodities, or do you charge the standard rates on everything between the smaller points you referred to?

A. You apply the standard mileage rate on everything between the points that I referred to, unless you have a commodity rate that would be lower; but the standard rates only apply by the use of the Canadian classification, and of course the commodities in the classification take class rates.

MR. EVANS: I was about to say in connection with this figure of 16 per cent which, in the 21 per cent case, was established by Mr. Knowles as a result of a study he made. Mr. Jefferson in the recent hearings before the Board used one of the test days, which the railway had obtained information for arriving at the conclusions at the revenue on competitive traffic rates was about 16 per cent of the intra Canada traffic. That was based on information Mr. Knowles had, and was really information the railway had obtained from one of the test days.

THE CHAIRMAN: When you say "intra" you mean that is not international?

MR. EVANS: Yes, my lord.

MR. SHEPARD: Q. While on this subject, I wondered whether as a result of the waybill study, or any other study, you have available a breakdown of the proportion of revenue received from the various types of rates? Do you know what percentage is carried at commodity rates, for example?

A. Well, the waybill study, when it is completed, will give the Board the tabulated information that they required the railways to give them, and will show the volume of traffic between towns, and the revenue they moved at standard rates and special rates, and commodity rates and competitive rates.

Q. I take it from that answer that your company has not made such a tabulation?

A. We have not, no, sir. We have taken these waybills for the test days, that the Board asked us, and we attached a sheet to the waybills giving the Board the information they required, but we have not made any tabulation,

Q. That is yourselves?

A. Ourselves. . . . Of the information contained on the waybill, that one day, but only for the competitive traffic and not for anything else.

Q. I should like to turn to page 63 --

COMMISSIONER INNIS: Before leaving that, Mr. Shepard, has the Board imposed any limit on the rates which might be considered developmental rates?

Q. Mr. Jefferson, I notice you say developmental industry. Do you have complete freedom in determining the rates for developmental industry?

A. We have complete freedom in making freight rates to develop industry to-day, subject to complaint of any party who may think the rates are too low or too high; then the Board will determine what is the proper rates.

Q. Has the Board ever made any pronouncement on the question of developmental rates?

A. Not that I have in mind, no, sir.

MR. EVANS: I think perhaps the answer to the question, Dr. Innis, is this, that the Board will not initiate such rate but assuming unjust discrimination is not shown, the Board will approve rates put in by the railways.

COMMISSIONER INNIS: Q. Another point is, you refer to the movement of the maximum amount of traffic. That was one of the objectives of the railway, presumably. Is that more important than getting the maximum amount of revenue?

(Page 15753 follows)

A. No, sir; but you cannot get the maximum amount of traffic unless you make the rates such as will move the traffic.

Q. Yes, but you cannot get more revenue by adjusting your rates to a certain type of traffic?

A. But if the traffic did not move---

Q. Well, I am assuming that the traffic moves.

A. Well, I will put it this way, that in our work we try not to make the rates any lower than we have to to develop or move the traffic.

Q. Then your primary concern is revenue rather than traffic?

A. Well, it is both.

Q. But you do not take traffic which does not bring you enough, or on which you have to lower the rates to the point---

A. If in making a rate to develop the movement of traffic it was such that we considered the traffic compensatory, then we would not make the rate.

Q. But your objective is really the maximum amount of revenue?

A. The maximum amount of revenue that will move the traffic, yes, sir.

MR SHEPARD: Q. Then on page 63, Mr. Jefferson, of Part I, paragraph 41 from your Outline Submission is included, and I would like to read it first:

> "General freight rate revisions are required when the level of rates authorized becomes unjust and unreasonable to either shippers or the railways on account of changing conditions or cost of transportation but these can best be carried out by the Board of Transport Commissioners within the framework of the Railway Act and in the light of the knowledge

and experience of the Board and its staff."
I wanted just to discuss with you for a moment the last line of that statement in particular. I suppose you would agree with me that before the fall of 1946 there had not been a general rate case for twenty years?

A. That is right.

Q. In Canada.

A. Not since the 1927 judgment of the Board.

Q. The 1927 judgment?

A. Yes.

Q. So that there was a period of about twenty years when the Board itself and its staff was not concerned with matters that normally come up in a general rate case?

A. Only to the extent that anyone might file a complaint with the Board.

Q. Yes, but in fact there were very few complaints filed?

A. Of a general character; specific complaints.

Q. I suppose you have personal knowledge of the personnel of the Board, and you would be aware that there had been substantial changes in the personnel between the rate case of 1927 and the rate case that started in late 1946?

A. You mean in the Commissioners?

Q. The Commissioners themselves, and in their staff?

A. Well, not in the staff, but the Commissioners were different in the 1925-27 investigation and in the 1946 case.

Q. You are not suggesting that the personnel of the Board staff was the same, are you, twenty years later?

A. I am so far as the Chief Traffic Officer of the Board is concerned.

Q. He was the Chief Traffic Officer in 1927 and he also was in 1946; is that correct?

A. Oh, yes, he was there since 1922.

Q. As Chief Traffic Officer?

A. Yes, sir.

Q. What assistants has he got? What staff has he got?

A. Well, he has an assistant -- I think two assistant directors and a staff of clerks, I don't know how many.

Q. How long had his two assistant directors been with him in 1946?

A. Well, one had been there a good many years, but the other one, I don't know how long really he had been there; a number of years, but I cannot give you the exact time.

Q. Had either one of them been there in 1927?

A. One of them, yes, sir.

Q. One of them had been?

A. Yes, sir.

Q. Do you know how long before 1927 he had been there?

A. No, sir, I could not tell you that.

Q. Are you familiar with the type of expert assistants that the Board had in its staff?

A. No, sir, I am not.

Q. Do you know whether prior to 1946 they had any Chartered Accountants on their staff?

A. I do not know.

Q. Do you know whether they had any economists on their staff?

A. Not that I know of; I do not know.

Q. Or qualified engineers? A. Well, they had engineers in their engineering and operating department, yes, sir.

Q. Do you know how many?

A. No, sir.

Q. Then, Mr. Jefferson, would you turn to page 70 of Part I. The general heading of "Competitive Rates" starts on that page, and there are several paragraphs, namely, numbers 46 to 51, quoted from the C.P.R. Outline Submissions. I wanted first just to clear up one small point in paragraph 46. The second sentence reads:

"The level of a competitive rate is not set by the railway but by the competition."

Actually that is not strictly correct; the railway does set it after attempting in its own judgment to decide a level they have to set it at in order to meet competition?

A. Yes, but we do not set the rate that is made necessary for the competitive rate.

Q. Would you mind just explaining that?

A. Well, if the water lines or the trucks make a rate from point A to point B lower than the rate of the railways, and the railways want to meet the competition, then they either meet that competition by meeting the rate of the truck or water line or obtaining something higher if they can get something higher and still obtain the traffic.

Q. Yes, but it is a matter of judgment as far as the railway traffic department is concerned to determine what rate they should fix?

A. Quite right, but I do not think you have got the right interpretation of the word "set". We do not set the rate; we meet the rate.

Q. Oh, I see what you mean. In railway parlance, you set a rate when you have the field to yourself?

A. Yes, sir, that is right.

Q. But you do not set any rate where there is compe-

tition?

A. No; we meet the rate that is set by our competitor.

Q. I understand. Then I think you have said in your evidence, Mr. Jefferson, that you would not knowingly fix a rate that did not meet Mr. Walker's tests -- that is, that it would be no lower than necessary to meet the competition, and that it would always pay the out-of-pocket cost plus something in addition?

A. That is right.

Q. And I suppose the fact is, though, that you do not know that every rate would meet that test?

A. Only by the tests which I gave in my evidence that I said we used.

Q. Which is the system average of car-mile earnings?

A. Either system or Eastern Region or Western Region or whichever region we are working in.

Q. You do break down the car-mile earnings into various areas, do you?

A. Oh, yes; that is in our submission.

MR EVANS: He also gave six or seven tests -- length of haul, ton-mile earnings, and so on.

MR SHEPARD: Yes, I remember those.

THE CHAIRMAN: I did not hear you, Mr. Evans.

MR EVANS: I was just reminding Mr. Shepard that in Mr. Jefferson's evidence he gave several tests -- length of haul, ton-mile earnings, and quite a number---

THE WITNESS: Empty car movement, and many other things.

MR SHEPARD: Q. But I think you said before in your evidence that there is no way of doing an accurate cost study and extracting the various components of the cost of any given movement?

A. Between any two points on the railway, I say no.

Q. It would be an impossible task?

A. Yes, sir.

Q. Then I would like to direct your attention, Mr. Jefferson, to paragraph 49, and I think perhaps I had better read that and then we can discuss it:

"In such circumstances" --

you are referring still to competitive rates --

"a community, in which the railway does not have to compete with other transportation agencies, does not suffer when the railway establishes competitive rates in another area. The lower level of transportation charges in the competitive area would be effective there even if the railway had not found it necessary to reduce its rates in order to secure or retain traffic."

Now I would like to ask you, if you could, to explain the second sentence there before I deal with some questions that have arisen in my mind on the first part of the paragraph. You say:

"The lower level of transportation charges in the competitive area would be effective there even if the railway had not found it necessary to reduce its rates in order to secure or retain traffic."

A. Yes; it seems to me perfectly clear.

Q. In other words, you are suggesting that if there was no competition in one area there would be other factors that would reduce the rates in that area?

A. No, no. What that second sentence says is this: Take a hypothetical case again, from point A to point B; if you have a competitor naming a rate we will say of 20¢, and the railway rate is 25¢, it does not affect the shippers in a non-competitive area if we meet the 20¢ rate in the competitive area.

COMMISSIONER ANGUS: The word "there" seems to refer to the competitive area.

MR SHEPARD: Perhaps it does. I am still not too clear in my mind.

THE WITNESS: "The lower level of transportation charges in the competitive area would be effective there"--that is, the competitive area.

COMMISSIONER ANGUS: Q. In the competitive area?

A. Yes, sir; even if the railway had not found---

THE CHAIRMAN: Q. You say that the lower level would be effective in the competitive area even if the railway had not found it necessary to reduce its rates?

A. Yes, sir.

Q. Be effective then by other carriers?

A. Yes, sir. Say a truck line from point A to point B makes a 20¢ rate, and our rate is 25¢; now, if we meet the 20¢ rate, then that does not affect anyone who may be shipping from point C to point D that is not in the area at all.

MR SHEPARD: Q. That was the next point I was coming to, Mr. Jefferson. You say that does not affect anyone in another area?

A. Yes, sir.

Q. I just wanted to explore that with you a little. Let us suppose that this 25¢ rate you spoke of was in fact reduced to 20¢?

A. Yes, sir.

Q. And you continued to haul the same volume of traffic that you had formerly hauled at the 25¢ rate, but you only collected 20 ¢, because you had reduced your rate; would not that have the effect of reducing your revenues?

A. It would have the effect of reducing---

Q. Your total revenues?

A. Yes, but the railway would not reduce the rate if it did not think it would capture some of the traffic it was losing.

Q. Oh, I see. Your idea is that you reduce the rate from 25¢ to 20¢, and you pick up enough extra traffic as a result of doing that to offset the loss in revenue?

A. That is right; that is our aim.

Q. But supposing you should only retain the traffic that you had as a result of that reduction, would you not reduce it?

A. That is where the question of judgment comes in.

(Page 15763 follows)

Q. I appreciate that.

A. Now, if we felt that by reducing the rate from 25¢ to 20¢ we were not going to get any more traffic than we did at 25¢, we would not reduce the rate at all.

Q. And you would let all the traffic go?

A. It would not all go if we thought in our judgment we would retain only what we would get.

Q. But there might conceivably, I would think, be a circumstance where by failing to reduce from 25¢ to 20¢ you would lose all the traffic that you formerly carried at 25¢ so that if you make the reduction to 20¢ you retain that same volume of traffic, but you do not acquire any more traffic that would be possible, would it not?

A. No, sir, if I may say so, I do not think your statement is consistent. If we did not feel that we would get any more traffic by reducing the rate from 25¢ to 20¢, than we had at 25¢, we would not reduce the rate at all. If we were satisfied we were not going to get any business even if we reduced the rate, we would not reduce it.

Q. But if you were also satisfied that if you failed to reduce from 25¢ to 20¢ you would lose the traffic that you were then carrying?

A. Certainly, but there would be no use in reducing it if we were not satisfied we were going to recapture some of it.

Q. I think we are not thinking along the same lines. You are thinking of traffic that is already lost; I am thinking of traffic which you in

your judgment are sure you are going to lose if you do not make a rate reduction?

A. Yes, if we do not make a rate reduction in our rates, but we would not reduce it if we were not satisfied we were going to get it. We would not reduce it if we were not satisfied that we would get more than we were getting.

Q. I thought you said a moment ago that by reducing a rate you would always get more traffic than you formerly carried?

A. That always comes back to the same case -

THE CHAIRMAN: How can that be? Before the competition came along you got all the traffic? You had a monopoly?

A. Yes, sir.

Q. And you were charging 25¢ then?

A. Yes, sir.

Q. And along comes the trucking competition and you have to reduce to 20¢. Even with that you do not get it all; you still lose some of the trafffic?

A. It would be a case of take it or leave it.

Q. Well, how do you account then for the difference between the 25¢ that you were getting when you had a monopoly and the 20¢ you are getting now? Even if you get all the freight you are still getting less revenue, aren't you?

A. But if we had not reduced the rate, we might not have got any.

MR. SHEPARD: I was wanting to know how you make up for that? When you had the monopoly in

that area, you got 25¢. The competition comes along and after that you get only 20¢ -

THE CHAIRMAN: Then, those who live in areas which are not competitive and who are still paying the higher rate of 25¢, they think that they are contributing to the revenues which you are failing to get in the competitive area whereyou have to reduce to 20¢. And that is the problem, I think?

MR. SHEPARD: That is exactly the point.

THE CHAIRMAN: How do you answer that? What do you say in that case?

THE WITNESS: We would not get the business at all if we did not reduce the rate and if by reducing the rate we can still make some money, then it does not hurt the party in the non-competitive area if we meet the competition.

MR. SHEPARD: The Chairman really covered what I was really leading up to. My point is, that you have now said that you would obtain less revenue by reducing the rate?

A. But it depends upon which instance we are discussing.

Q. I am just discussing the general question.

A. You cannot discuss it in general; you have to take each case.

Q. I can, but apparently you cannot. Let us take a hypothetical case. You have got a fixed volume of traffic. You were charging 25¢ and you are now charging 20¢ on the same volume of traffic. Now, by simple arithmetic, you come out at the end of the year with less revenue for hauling that volume of

traffic at the reduced rate?

A. Quite so, but we would have had still less revenue if we had not got the business at all, and if we can make money on the traffic at 20¢, it is then in the interests of everyone if we meet the competition.

Q. I quite agree. Then, if the drop in revenue from that volume of traffic had not taken place - I am suggesting now that if there had been no competitive force that required you to reduce that rate, and I want you to understand that we approve and understand the reasons why you must reduce your rates to meet competition?

A. Yes, sir.

Q. Subject to the tests that we all know about. But there would have been a higher total volume of revenue if you had not reduced that rate?

A. If we had not reduced the rate?

Q. Yes, and you had retained the traffic?

A. If we had retained the traffic, yes. If we felt that to be the situation we would not reduce the rate.

Q. I agree. Now, with that higher level of revenue, and this is purely hypothetical, it might not then be necessary to raise rates in non-competitive areas in Canada. What I am getting at is, that the fact that you are forced to meet competition in one area results or might result in having the rates higher than they would otherwise be in another area and the only reason I am bringing this out at all is that you make the bald statement in paragraph 49 that:

"A community in which the railway does not have to compete with other transportation agencies does not suffer when the railway establishes competitive rates in another area."

A. Well, he does not suffer if we are making some money out of the competition and we found it necessary to meet the competition.

Q. But surely he suffers if you are making less money than you would if there was no competition to meet?

A. He is suffering if we make - -

Q. Less money than you would if there was no competition to meet. In other words, if there was no competition, your rates would remain at a higher level?

A. And we would still have the business but that just was not the case.

Q. I know that.

COMMISSIONER ANGUS: Your point is, Mr. Shepard, that the cause of the suffering is the competition, and not the action of the railway?

MR. SHEPARD: Absolutely. I am not disputing the railways action in reducing the rates but I am trying to point up the fact that the impact of meeting competition in one area is definitely felt in another area becausde the railways cannot from all sources, competitive and non-competitive areas alike, acquire sufficient revenue to meet all their obligations.

THE CHAIRMAN: Can you tell me where you are leading to from there?

MR. SHEPARD: I am just going to drop it there.

THE CHAIRMAN: Are you leading to this point then, that if with these competitive rates they save something of the traffic, what then would you do in the other areas where there is no competition? You see, if the railways do not meet the competition in the competitive areas, the deficit would be all the larger.

MR. SHEPARD: That is correct.

THE CHAIRMAN: Then what is the desire of the non-competitive areas? Do they say that "Regardless of the consequences when the rates in the competitive areas go down, our rates ought to go down too, to the same level"?

MR. SHEPARD: No, we would not say that, sir.

THE CHAIRMAN: What do you say?

MR. SHEPARD: What we would object to, is that when there is a sufficient volume of competitive traffic at what we might call "depressed rates" and if that volume of competitive traffic increases substantially in the future, it does not seem fair and reasonable to the people paying the long-haul traffic charges that those rates should indefinitely be expected to pay more than an ordinary return on that traffic in order to make up for the somewhat depressed return on the competitive traffic.

COMMISSIONER ANGUS: Is it your suggestion that the railways' competitors should be handicapped?

MR. SHEPARD: No, sir.

COMMISSIONER ANGSS: That what they are doing is something unnatural and that you should be protected against it?

MR. SHEPARD: No, I do not think I would go that far. The question is really the most important aspect of this entire investigation as far as I personally am concerned, and it does seem to me that you are meeting an increasingly difficult competitive situation between the various forms of transportation, and if I knew the solution, I would be a very valuable man, I think.

THE CHAIRMAN: You see, if you take a certain portion of the country where there is competition and great competition and consequently a lowering of the railway freight rates in order to retain part or all of that traffic, and on the other hand in the western areas there is much less competition and, in some areas, none at all, and consequently the rates will remain at 25¢, then there is bound to be, isn't there, a difference between the level of rates in the east and the level of rates in the west; that is, with the competitive area being in the east and the non-competitive area in the west?

MR. SHEPARD: I think that is so, yes.

THE CHAIRMAN: You told us in the beginning of your case here, that that discrepancy has very largely decreased. I think today it is down to six and a fraction percent. How much more can you decrease it under the circumstances?

MR. EVANS: It actually has decreased to

nothing now. Our figures show that it is practically nothing.

THE CHAIRMAN: You think the facts are that way?

MR. EVANS: We have shown that in our Brief.

THE CHAIRMAN: I think I have in mind the evidence given by Mr. Moffat and I think those are the figures he put.

MR. SHEPARD: Six and a quarter percent. I think perhaps Mr. Evans had in mind the inclusion of grain traffic which reduced it, I think, to three something percent.

MR. EVANS: No , we used later figures, down to the end of June or July 1949, and we show in our Brief, and I will turn that up, that using Mr. Moffat's method and excluding grain traffic which Mr. Moffat says is only a minor factor, that it is practically zero; it is a decimal point.

COMMISSIONER ANGUS: Is your point really this; if the area of competition increases , the hard core of rates will be affected by it and one effect of it will be that the rates in the non-competitive areas will be continually pushed up?

MR. SHEPARD: Yes, sir, I was going to develop that in a moment.

THE CHAIRMAN: But, Mr. Shepard, then what would you do about that sort of situation?

MR. SHEPARD: I wish I knew, Mr. Chairman.

COMMISSIONER INNIS: You are anxious that there should be every precaution that these competitive rates should be compensatory?

MR. SHEPARD: Yes, sir.

COMMISSIONER INNIS: And you are anxious too that when the increases take place that they will not be unduly severe on the non-competitive territory since they cannot be increased on the competitive territory?

MR. SHEPARD: That is the basis of our attitude, yes, sir.

MR. EVANS: The page in our Brief is page 66 of Part II and the table there shows that using the year 1948, and using Mr. Moffat's method, the difference is now 3% - 2.9, and using later figures as of June 30, 1949, including all traffic,.003%.

MR. SHEPARD: Mr. Chairman, if I may say so, that is highly gratifying to the west to have that result shown. One of our contentions, or one of our submissions, was, that there should be some method - we were not bold enough to suggest the exact method, but there should be a method to ensure that when the level of rates did come close to parity, they should not then be dislocated at a later date. Then you are faced with the problem we have just been discussing. If the volume of competitive traffic in the east should next year, or the year after, increase substantially, it is bound to throw the level of rates out of kilter again east and west. That is pointing up the problem.

MR. EVANS: What will actually happen is that the west is a greater potential ground for

truck competition now, because the east is pretty well developed now, and the west is going to develop.

THE WITNESS: The figures on page 16 are not a true story today, because the rate level in the west would be lower than the east if these figures were brought up to date.

THE CHAIRMAN: Did you say, the level in the west would be lower than the level in the east?

A. Yes, sir, if these figures were brought up to include the whole calendar year, 1949.

MR. SHEPARD: How often is that result shown in the history of the Canadian Pacific Railway?

A. What do you mean "how often"?

Q. For how many years in, say, the last fifty years, have the rate levels been higher in the east, than they have in the west?

A. Well, I don't know. I do not think these figures of Mr. Moffat's are correct anyway, because he excludes the grain.

Q. We have heard a great deal about the criticism of Mr. Moffat's theory, but you do not know about the past years?

A. I cannot give you the figures for past years, no.

Q. Now, I wanted to discuss with you, Mr. Jefferson, l.c.l. traffic. Starting first on page 74 of Part I -

MR. EVANS: That is carload traffic.

MR. SHEPARD: Well, I want to gather some figures now, from various pages and then go on to a

discussion of l.c.l. traffic. At page 94 the heading is "As to the Compensatory Character of Carload Competitive Rates", and down at the bottom of the page, there is a table which says: "The Average Revenue at Motor Truck and/or Water Competitive Rates", and the second column shows:-"Average per Car Mile Revenue 64.5¢". You see that, do you, Mr. Jefferson?

A. Under the "Motor Truck and/or Water Competitive Rates", yes, sir.

Q. Then the next two columns to the right are headed: "System Average Revenue, for Year 1948" and the right hand column is headed "Average per Car Mile Revenue" and shows 35¢?

A. Yes, sir.

Q. And then at the top of page 75 this statement appears:

> "It can readily be seen that these rates are, generally speaking, compensatory, because they are returning to the Canadian Pacific revenues substantially in excess of the system average"?

A. Yes, sir.

Q. So that you say that those rates are compensatory for the one reason stated in that sentence which I have just read?

A. Yes, sir.

Q. Then, switching briefly to page 95, we have the same type of table shown with reference to transcontinental rates, and the second column shows: "Average Revenue at Competitive Transcontinental Rates, Revenue per Car Mile 38.1¢". Do you see that?

A. Yes.

Q. And then the system average is shown again as 35¢?

A. Yes, sir.

Q. Then, turning back to page 94, Mr. Jefferson, you deal with this question of the compensatory nature of transcontinental rates in two statements, one as to the east-bound traffic which is the last sentence of the top paragraph. It starts five lines from the top of page 94, and you say:

> "In view of the long haul involved, and in view of the fact that only two items on the table indicate carmile earnings below the system average, there can be no doubt that these rates are reasonably compensatory"?

A. Yes, sir.

Q. And in the middle of the next paragraph, and the next paragraph deals with west-bound transcontinental traffic, the ninth line, you say:-

> "In view of the long haul there can be no doubt that these rates are also on the whole compensatory"?

A. Yes, sir.

Q. And that is a statement based on the per carmile earnings compared with the system per carmile earnings?

MR. EVANS: Per ton mile.

MR. SHEPARD: He has not mentioned per ton mile, Mr. Evans.

MR. EVANS: He has, in this very paragraph you are reading.

MR. SHEPARD: Oh yes, you are quite right. That is right.

THE WITNESS: What page is this?

MR. SHEPARD: 94. Mr. Evans has pointed out to me that before the statement as to the compensatory nature of the transcontinental rates is made, you had referred to ton mile earnings as well as carmile earnings?

A. That is right.

Q. Then turning, Mr. Jefferson, to page 89, you show a similar table at the bottom of that page, showing the average per car mile revenue from agreed charges; the system average, 81.2 cents -- the last item of the second column?

A. Yes, sir.

Q. And again we have the system average of 35 cents?

A. That is right.

Q. On page 90, at the top of the page this statement is found:

"It will be seen that the average per car mile revenue from agreed charges is substantially in excess of the average per car mile revenue for all traffic for the year 1948 and they can therefore be taken as compensatory."

A. Yes, sir.

Q. So that you draw the conclusion that your agreed charge revenue in traffic is compensatory because your revenue exceeds the per car mile system average?

A. Having regard to the competition which we have to meet.

MR. EVANS: The brief says "substantially in excess."

MR. SHEPARD: Q. Mr. Evans points out that the brief says it is substantially in excess of the car mile average?

A. Yes, sir.

Q. I have now pointed out the competitive per car mileage of 64.5, transcontinental 38.1 and agreed charges 81.2. I presume that all these figures were calculated from your own sampling of waybills?

A. Yes, sir, which I have explained in my evidence.

Q. In other words the figures that you arrived at were statistical averages?

A. No, sir.

Q. Based on samples?.

A. Not statistical averages; they were actual averages on samples used.

Q. But the sample was a small portion of your total traffic?

A. That may be; you couldn't take all the traffic.

Q. I agree; I am not criticizing you. You could not take more, because I realize your large traffic.

A. But we did not try to take the ones that were the best for us.

Q. Then, Mr. Jefferson, I just want to go through the method of computing these figures?

A. Are you in the appendix now?

Q. Yes, I am, the appendix at page 81. I am not going to repeat what you covered in your direct examination, but I want to make sure that I understood the calculation that was made when you arrived at these averages. This statement on page 81, the tabulation, relates to competitive rates from British Columbia points to destinations in eastern Canada. . . moving at eastbound transcontinental rates. I presume that the same method was followed in making this calculation as was made in the other instances we have been discussing?

A. What do you mean by the same method?

Q. The same method of arriving at your end result on that page we are looking at -- 35.3 cents -- you follow the same standard pattern in developing these figures for competitive rates and for agreed charges as shown here for transcontinental traffic?

A. They are all determined in the same manner, yes.

MR. EVANS: May I remind you that we also took the commodities in Mr. Frawley's brief, and made the separate table on page 127 of Part II. That may indicate we are quite prepared to take somebody else's commodities and test them.

MR. SHEPARD: I was not suggesting for a minute that this was a loaded table.

Q. There is one paragraph, Mr. Jefferson, in Part I of your brief that is I think a description of the method.

THE CHAIRMAN: What page?

MR. SHEPARD: Page 74.

Q. Perhaps before proceeding to look at that table further I should read that paragraph. It is the second paragraph on page 74: I realize we are now back at the carload competitive rates, but from what you tell me the same method was followed in the other calculations. The second paragraph reads:

> "The movements listed in the table were not selected with the idea of showing only rates which are compensatory. The movements in Eastern Canada were picked at random from the tariffs after which the waybills were obtained from the Accounting Department records. These waybills were checked and the average weight taken for the first ten cars shipped in the year 1948. In a few cases the entire movement for 1948 was taken where the total movements amounted to less than ten cars."

Now that is a short description of how you went about making these calculations?

A. Yes, sir.

Q. Then back to page 81 of the appendix, Mr. Jefferson, this is eastbound transcontinental traffic, and it covers twelve different items, shown under the heading of commodities, on the left-hand side of the page?

A. Page 81?

Q. Page 81.

A. There are only six commodities.

Q. Yes; there are twelve different movements and six commodities, two movements for each?

A. Yes, sir; that is Montreal and Toronto.

Q. These movements for commodities were picked at random, you say at page 74 of Part I?

A. Yes, bearing in mind that we wanted to pick commodities where we knew there was going to be a volume of movement, like canned fish or canned goods, and things of that kind.

Q. You did pick commodities where you knew there was going to be a volume of movement?

A. Oh, yes.

Q. Then you did not pick them at random?

A. Well, at random, but bearing that in mind; we did not want to take commodities on which there was no movement.

Q. Did you differentiate between commodities on which there was no movement, those on which there was some movement and those on which there was a great deal of movement?

A. If we picked a commodity and found by getting the waybill that there wasn't any movement, we wouldn't take that commodity.

Q. So that these items are picked at random except

that they represent actual traffic?

A. That is right.

Q. I suppose it would be fair to say that some of the items shown are shipped normally in large quantities and some in small quantities?

A. That is right.

Q. These are the actual figures on this table; they don't attempt to weight for the variation in volume of traffic between commodities?

A. Oh, no; the average loading weight is the average weight of actual shipments.

Q. My point is that these are actual shipments; it doesn't bring out the weighted result?

A. Weighted result?

Q. Yes.

A. They bring out the weighted result. You mean as between commodities?

Q. Yes.

A. No; one commodity has no relation to the other in that respect.

Q. So that if you had a very large movement of canned fish and a very small movement of cocoanut oil, they would have an equal effect in obtaining your end result in this statement?

A. That is right.

Q. Did you consider the other items shown here, the six items -- my copy is not too good -- there is canned fish . . .

A. Canned goods.

Q. Fish fresh frozen, and I do not know what the next one is.

A. Hops.

Q. Cocoanut oil, paper and paper products. . . would you consider that those commodities would be representative of eastbound transcontinental traffic?

A. Moving at competitive rates?

Q. Yes?

A. I would think that they are very representative of eastbound commodities that move in volume.

Q. Move in volume?

A. Yes, sir.

Q. Were they picked with that idea in mind?

A. They were picked with the idea in mind of having a commodity that would represent a substantial movement as far as we could determine from our knowledge that they were traffic that moved regularly, without getting an analysis of all traffic.

COMMISSIONER ANGUS: When you are speaking of the products, do you refer to the 35.3 per cent?

MR. SHEPARD: Yes.

COMMISSIONER ANGUS: Does any great significance attach itself to the average there? Does not that rate stand or fall on its own merits, for each commodity? If one rate were a little below that, perhaps that rate ought to be raised irrespective of the average.

MR. SHEPARD: Yes, I agree, sir. My point in pursuing this line with Mr. Jefferson is to indicate that this average may not be a representative average, because if there are some commodities not shown on this table, to which the bulk relates to transcontinental traffic, it might bring about very different results.

THE WITNESS: Do you mean this would be a high average?

MR. SHEPARD:

Q. I don't know whether it would be high or low.

MR. EVANS: If you look at page 127 you will come to the conclusion that it is a low average.

THE WITNESS: I would say it is a low average.

MR. SHEPARD: Perhaps it is; I am not attacking the average.

THE WITNESS: Take your canned fish and canned goods, we all know there is a very substantial movement of those two commodities eastbound as well as westbound. Now, the canned goods, those are not the lowest rate in this statement; it is the lowest by one; cocoanut oil is lower. Canned goods is at the rate of $1.40. Now, I don't really know if there are any other eastbound commodities whose rates are lower than $1.40, and are competitive rates. Take canned fish and canned goods in 1939, that rate was 80 cents, and to-day it is $1.40.

COMMISSIONER ANGUS: My question really was this: does any significance attach to that average? Is there any importance in that figure? Are not the important figures the individual ones?

MR. SHEPARD: Except, sir, in his evidence Mr. Jefferson has given as one of the main reasons, and in some cases the reason, for determining that this class of traffic is compensatory, the fact that this average, which is worked out in this way, is higher than the system average.

MR. EVANS: No; we have a table showing the individual items. I think Dr. Angus is quite correct: notwithstanding that average it might be that the figure of 60 cents -- if you could point to one that wasn't compensatory -- it might be that figure ought to be looked into.

MR. SHEPARD: I agree with that.

COMMISSIONER ANGUS: You could not defend one low rate on the ground that it could be averaged in with the other transcontinental rates?

THE WITNESS: No.

MR. SHEPARD: No. But by the same token I think it is difficult to defend any other rate by calculating the average per car mile earning on that one commodity, and saying this is higher or lower than the system per car mile average, therefore it is or it is not compensatory.

MR. EVANS: We have yet to say that.

MR. SHEPARD: The inference I read into it, which may or may not be correct --

MR. EVANS: Would you like me to clear that up?

MR. SHEPARD: I would be delighted.

MR. EVANS: If the car mile average is substantially in excess of the system average, that should be prima facie evidence; if you get down around the system average, you must look at the ton mile earnings, the average haul and things of that sort. We have never in any way said that the car mileage earnings alone are justification for it.

COMMISSIONER INNIS: The difficulty is that we have no rate lower than the average, except the Crows Nest Pass rate or rates of that sort; it makes it difficult to get a balanced picture of things that are at the average or above the average.

MR. EVANS: The difficulty here is that competitive rates by and large apply to higher rated traffic, and it has been generally supposed that these so-called give-away rates are below the average level. Now we show by analysing the competitive rates, that they are by and large well above the average. The rates that

are below the average are rates like we have shown: livestock, Alberta coal, Crows Nest Pass rates -- these all drag the average down.

COMMISSIONER INNIS: I would like to see a clearer picture of the lower side of the average. It is very confusing as it is now, with all the emphasis on the rates above the average or at the average. If you have to start out to give an analysis of all the rates, I would be inclined to agree . . .

MR. EVANS: You see we started out to defend the competitive rates; the attack was on those, and we started out by defending those; and we point out what seems to be little realized by our friends, that those rates effect a higher rate of traffic, and even the present level of those rates is well above the system average. I quite agree that if you want to see the whole picture you have to take each commodity and run it through. It would take considerable study, because you would want to get the actual movement; you would not want to take a classification of those movements. It could be done.

COMMISSIONER INNIS: I think one must be critical of the rates which are put forward. . .

MR. EVANS: I do not want to get into forbidden territory, but if we take the figure of from $13,000,000 to $15,000,000, which relates to the Crows Nest Pass rates, which is measured in our study, and measure it against the total amount of competitive traffic, you will find that one item is so big in relation to the total that it would drag down the average of all competitive rates.

COMMISSIONER INNIS: That is the sort of thing I would like to see worked out in detail.

MR. EVANS: If you feel we should do something

in that way, subject to the difficulties which we have with our short staff and so on --

COMMISSIONER INNIS: No . . .

MR. EVANS: I am most anxious to give you what you want.

THE WITNESS: On page 82 and 83 of the Appendix there are two or three instances where we show the car mile earnings on the continental competitive traffic are below the system average. Take cast iron pipe, Toronto to Vancouver, I explain the necessity for the rate of $1 in my evidence, and the car mile earnings on that traffic is 28.1 cents. That is a long haul.

COMMISSIONER INNIS: Yes. My only fear is that the point you are trying to prove rather prejudices the reader and makes it difficult to understand.

THE WITNESS: The difficulty is that you can't find the competitive traffic where car mile earnings in many cases are below the average.

COMMISSIONER INNIS: Q. If you can't find many below the average then there must be very few above the average?

A. Very few above? I would say a lot above.

Q. Then how did you get your average?

MR. EVANS: It was traffic moving at low rates; when you consider the quantity of traffic moving at we will say the grain rate, the livestock rate, such rates tend to drag down the average on competitive rates.

COMMISSIONER INNIS: That is the sort of thing one would like to see brought out. Of course it is brought out in your statement.

MR. EVANS: Some of it is on forbidden ground.

MR. SHEPARD: Q. Mr. Jefferson, I want you to look again at page 81 of the appendix, just to make sure

that I understand how your 35.3 cents per car mile earning figure comes out of all this. I take it that the calculation was made by adding the column of figures under the word "Mile", which is the fourth column from the left, and which shows the miles of the sample movements taken?

A. That is right.

Q. And then you divide that by 12, because there are twelve movements shown; and you obtain the average of 2765 miles shown at the bottom of that column?

A. Well, I don't think is the way it was done.

Q. Can you tell me by what way it was done?

A. It is my recollection that we had the miles, and added all of the dollars in per car earning column --

Q. That is you are starting at the figure $989.77?

A. Yes; and then divide the total of the column headed "Miles" and the column headed "Per Car", and divide one by the other, and obtain the car mile earnings of 35.3 cents.

Q. That would give you the same result?

A. Yes.

Q. I was doing it in a much more complicated way, but yours is the simpler, by adding those two columns so that you are getting your average by taking the twelve movements?

A. That is right.

Q. The miles and revenue -- you divide one into the other?

A. Yes, sir.

Q. Now the item fresh frozen fish appears as the third item on that page, and there are two movements. I presume that there isn't any question that out of the twelve total movements, that two movements would be representative of the total volume of fish shipped

in relation to the total volume of eastbound transcontinental traffic; in other words, fresh frozen fish is not two-twelfths or anything like it of the total volume of eastbound transcontinental rates?

A. No; might be much less.

Q. It would be much less, would it not?

A. Yes, sir.

Q. Haveyou any idea how much it would be?

A. On these six commodities?

Q. On all the eastbound transcontinental traffic?

A. I have no idea.

Q. It would be a very, very small percentage, I presume?

A. Quite so.

(Page 15788 follows)

MR EVANS: It has any weakness that an arithmetical average has.

MR SHEPARD: That is exactly what I wanted to point out, Mr. Chairman.

Q. So that it would be fair to say, Mr. Jefferson, from our discussion that these averages that you have worked out for car-mile earnings on competitive rates, agreed charges and transcontinental rates, are unweighted for the volume of traffic, and that they are not representative of the total traffic?

A. I won't say they are not representative, because they are, but they are unweighted, because we could not do it any other way.

Q. Now, Mr. Jefferson, I wanted to turn to page 80 of the appendix and at the same time to page 89 of Part I. There is just one small point to be cleared up there. Looking first at page 80 of the appendix, you show the calculation made in order to arrive at the figure of 81.2¢ per car-mile earning from agreed charges in Eastern and Western Canada?

A. Yes, sir.

Q. And you take in this average the commodities shown on the left-hand column -- in Eastern Canada petroleum products, latex, crude rubber and salt, in Western Canada the products listed there, of coal, butter, lumber and petroleum products?

A. Yes, sir.

Q. Then looking at page 89 of Part I, you have got all those commodities that are shown on page 80 of the appendix listed about the middle of the page except three that have l.c.l. after them?

A. Yes, sir.

Q. And I wondered why you excluded the l.c.l. agreed charge traffic in making up your average?

A. Well, because the l.c.l. traffic does not move in carloads, and you could not get get a car-mile earning on it.

Q. Oh, I see.

A. The l.c.l. movements move in l.c.l. merchandise cars.

Q. Well, I thought there probably would be an explanation; but you are not suggesting that l.c.l. traffic does not move in cars; it still moves in cars?

A. Oh, yes.

Q. But not in full cars; is that what you mean?

A. That is right, to one destination.

Q. To one destination?

A. From one shipping point to one destination.

MR EVANS: I think perhaps, Mr. Shepard, you should not have the record in any state of uncertainty. L.c.l. may move in a full car, but there is no one commodity makes up the full car in l.c.l. shipments.

Q. That is what you meant?

A. Or to one destination, yes, sir.

THE CHAIRMAN: Q. Or to one destination?

A. Yes, sir.

Q. If a car is loaded up with one commodity but is to be unloaded at different destinations, then it is l.c.l., is it?

A. Yes, sir.

COMMISSIONER INNIS: Why this curious mixture? Here is advertising matter and sanitary supplies.

MR SHEPARD: Maybe thinking of Eaton's mail order catalogues.

Q. Now, Mr. Jefferson, we have been discussing the

computed car-mile earnings for competetive rates, trans-continental rates and agreed charges, and I wondered whether you or anyone in the C.P.R. had undertaken a similar study with relation to international and related rates?

A. No, sir.

Q. Or commodity rates?

A. Special commodity rates?

Q. Yes.

A. No, sir.

Q. Or l.c.l. agreed charges? You have explained no on that already, I think. Standard carload rates?

A. Standard carload rates?

Q. Yes; class rates?

A. Well, now, you say standard carload rates; do you mean standard mileage rates or---

Q. Well, I am thinking of class rates; that is what I have in mind -- standard rates?

A. Well, of course, I would think there would be very, very little class rate carload traffic moving at standard mileage rates.

Q. It is nearly all moved at commodity rates?

A. We have carload traffic moving on special class rates.

Q. Well, have you made studies of either one of those?

A. No, sir. The only way you would study those would be by taking specific movements, but we did not consider that necessary in this submission.

Q. You were not attempting to present a full picture of the earnings of the various classes, derived from the various classes of rates?

A. Take your class rates, your car-mile earnings would naturally be higher on special commodities; on some

commodities they would be higher; on other commodities which we have mentioned here this morning they would be lower, such as livestock and coal and grain and things of that sort.

Q. Would you care to venture an opinion as to whether your average per car-mile earning from commodities is above the system average or below it?

A. I would not care to say without making a study of each commodity.

Q. You have no views on it from your general experience?

A. No -- I mean other than I know that some of them pay well above the average and some pay below the average.

Q. You do not know what proportion is in each of the sums that you refer to?

A. No, sir; I would not want to hazard a guess at that.

Q. And what about international and related rates? Have you any idea whether their per car-mile earnings would be substantially above the system average?

A. Well, there again it depends on the commodity and where it is moving from and to. I won't say they all pay above the average, but the international rates -- I cannot pick out or think of any traffic in my mind that would be below the average; there may be some.

Q. Then I think you have already told us that the traffic moving at standard rates would, in your view, produce earnings higher than the system per car-mile earnings?

A. Oh, naturally, because they are the highest rates we have.

Q. What do you feel about the l.c.l. traffic?

A. Well, I gave in my evidence what information I

could with respect to car-mile earnings on both merchandise cars of less than carload freight and on what we call way freight cars of l.c.l. freight.

Q. Yes, I remember that.

A. And, as I recall it, my evidence showed that on the merchandise cars of revenue freight the car-mile earnings were well above the average, but on the way freight merchandise cars they were very much below the average, because of the very light loadings.

Q. Then, Mr. Jefferson, would you turn to page 82 of Part I. This is under the heading which starts at the top of page 81, "Less than carload competitive rates", and on page 82 Table 2 is found, which indicates loaded car miles, revenue, average revenue per loaded car mile. The first column moving to the right of the page shows less than carload traffic, then carload traffic, and then the total. Then again at the bottom of the total column we meet the figure 35¢, being the system per car-mile earning average?

A. Yes, sir.

Q. And at the bottom of the first column we meet the less than carload traffic average figure, average per car-mile earning, of 21.4¢?

A. Yes, sir.

Q. Then I wanted to take you through just a piece of arithmetic -- that is what it really amounts to. If you deduct 21.4¢ from 35¢ you arrive at an answer of 13.6¢?

A. Yes, sir.

Q. And if you should take the total loaded car miles, namely, 138,867,827, and multiply that by 13.6¢, you get an answer of $18,800,000; you see what I have done there?

A. You take your---

Q. So far I have not---

A. 138,000,000-odd loaded car miles for less than

carload traffic, and multiply it by the difference between the average car-mile earnings on less than carload traffic and carload traffic of 13.6¢.

Q. Yes.

A. That is what you have done.

Q. And you have got $18,800,000?

A. That may be.

Q. Now, that is a figure which would have been increased revenue to the C.P.R. -- and this is all hypothetical; I do not want to get into an argument about it, but it would have been $18,800,000 additional revenue to the C.P.R. if you had been able to charge rates on your l.c.l. traffic that would have averaged out to the system per car-mile earning of 35¢?

A. But that is without regard to the average loading per car on the traffic.

Q. I quite appreciate that; but just on that simple basis of arithmetic I think the result I have just described to you is correct?

A. On your basis of arithmetic; but I do not think it is a practical comparison.

Q. I am not making a comparison, I am making an arithmetical computation.

A. But I do not get the value of it.

Q. Well, that is perhaps something that I can develop later in argument.

MR SINCLAIR: Or try.

MR SHEPARD: Or try, as Mr. Sinclair says.

Q. Then dealing generally with l.c.l. traffic, Mr. Jefferson, there are, I think you have pointed out in your evidence, additional expenses that arise in handling l.c.l. traffic that are not present in other traffic, in the handling of other traffic?

A. That is right.

Q. Such as additional handling; additional freight shed facilities are required; the P. and D. cost would be a charge against l.c.l. revenues, I presume, would it not?

A. Yes, sir.

Q. And that in your brief, Part I, at page 86, is shown at about two and a half million dollars. And would you agree that there would be heavier terminal costs involved in the handling of l.c.l. traffic?

A. Well, there are heavier terminal costs in the handling of less than carload traffic, in that the less than carload traffic is loaded and unloaded by the shipper, whereas in carload traffic it is generally loaded and unloaded by the shipper or consignee.

Q. Yes.

A. I made a mistake there. I should have said the less than carload traffic is loaded and unloaded by the railway, not by the shipper; I think I said shipper.

Q. Then the last sentence on page 82 of Part I of the brief says:

"For example, in the year 1948 the average loading of L.C.L. was 4.78 tons and that of carload traffic 35.97 tons per car."

THE CHAIRMAN: Where is that?

MR SHEPARD: It is at the bottom of page 82, sir, the very last line, and it runs over to the top of page 83. I just wanted to draw Mr. Jefferson's attention to those two figures, carloading of 4.78 tons for l.c.l. traffic and 35.97 for the carload traffic.

Q. Now, we have calculated, Mr. Jefferson -- I think perhaps the easiest way to discuss this with you is to give you a copy of this; it is some more arithmetic, and it may be a little difficult to explain it without the copy.

THE CHAIRMAN: We will rise now.

---(Recess).

MR SHEPARD: Mr. Chairman, I have given the reporter a copy of this, and we might just have it included in the record at this point, and then I will go on to discuss it with Mr. Jefferson.

THE CHAIRMAN: This is your document, is it?

MR SHEPARD: Yes, sir.

COMPUTATION OF CARLOADINGS 1948

	CARLOAD TRAFFIC	L.C.L. TRAFFIC	SYSTEM TOTAL
1. Tonnage hauled Page 81	58,441,353 (97.34%)	1,595,480 (2.66%)	60,036,833 (100%)
2. Average tons per car " 83	35.97	4.78	
3. No. of carloadings (Divide 2 into 1)	1,624,725 (82.96%)	333,783 (17.04%)	1,958,508 (100%)

MR SHEPARD: The small piece of paper that I have handed to Mr. Jefferson is headed "Computation of Carloadings 1948", and on the left hand, going down the left hand, the figures are taken from the C.P.R. brief, Part I, for total tonnage hauled, which appears at page 81 of Part I, and the figures are included in the statement for carload traffic at 58,000,000-odd tons, the l.c.l. traffic at just under 1,600,000 tons, and the system total just over 60,000,000 tons. Breaking that total down percentagewise, the carload traffic accounted for 97.34 per cent of the tonnage hauled, and the l.c.l. traffic accounted for 2.66 per cent of the tonnage hauled, being the balance. Then item 2 on the statement gives figures from page 83 of the brief, the top line of page 83, showing the average tons per car of carload traffic being 35.97 tons, l.c.l. 4.78, and the arithmetic then proceeds in item 3 of the statement,

showing the number of carloadings split between carload traffic and l.c.l. traffic. By dividing item 2 into item 1 you get roughly 1,600,000 cars of carload traffic, as opposed to 333,000-odd cars of l.c.l. traffic, and that translated into percentages indicates that 82.96 per cent of the total number of carloadings hauls carload traffic, while 17.04 per cent of the total, being the balance, hauls the l.c.l. traffic. Now, assuming that the arithmetic is correct in that statement, it points out that on l.c.l. traffic for 2.66 per cent of the total tonnage hauled by the C.P.R. in 1948 it required 17.04 per cent of the total carloadings.

Q. I presume you have no fault to find with the arithmetic in that?

A. No, sir.

COMMISSIONER ANGUS: Is this tonnage without any consideration for distance?

MR SHEPARD: Yes, sir.

THE WITNESS: But I explained in my evidence why the average loading of less than carload traffic was so low, not because of competitive rates, which appears to be the basis of our discussion this morning. On pages 62 to 65 inclusive of the appendix to Part I we show the movements of less than carload merchandise cars and the average weights per car and the average revenue per car-mile, and they in the main are all very much higher than the average car-mile earnings for all traffic. But on pages 66 to 71 inclusive of the appendix to Part I we show the very light loading of less than carload way freight cars, and that is what pulls the average down.

MR SHEPARD: Q. You did discuss that in your direct examination?

A. Yes, sir.

Q. But all that I wanted to do by following this line with you, Mr. Jefferson, was to get your agreement with me that, in view of the points we have been discussing, the problem of l.c.l. traffic is in fact one of the most serious that the railways face today?

A. The problem of less than carload traffic?

Q. The problem of obtaining sufficient revenue from it.

A. Well, I won't say that we are not getting sufficient revenue from less than carload traffic. We would like to get more revenue from all our traffic, but it all depends on your movement. We all know that way freight cars in themselves do not pay, but you have got to give the service.

Q. We all know that you are required by law to have the facilities to carry traffic if offered.

A. Yes, sir.

Q. But there would be nothing to prevent you from putting the rates up if you decided you were losing money, and the practical result of that would be that the traffic would not be offered?

A. Then the result of that, I am afraid, would be that you would increase your rates where you had operated way freight cars, and you would not increase your rates where you had merchandise cars. I think you would just land in trouble if you attempted to do that.

Q. Well, you would probably agree with me, Mr. Jefferson, that there is some significance to the fact that the l.c.l. per car-mile earning is substantially less than the system average?

A. I agree it is less, but your hauling is less as well; you must bear that in mind. Your ton-mile earnings are higher; you must bear that in mind.

Q. Per ton-mile?

A. Yes, sir.

Q. But you would agree with me that there would be some significance in the fact that it requires 17.04 per cent of the total carloadings to haul 2.66 per cent of the tonnage?

A. Of the tonnage, yes, sir.

Q. Have you any suggestions that might be helpful to the Commission as to what should be done with reference to l.c.l. traffic to improve the earnings from it?

A. I might suggest they remove the competition that we have to contend with.

Q. Well, that is what you do or attempt to do with an agreed charge?

A. Yes, sir, but not for l.c.l. merchandise traffic. That is what we attempt to do with our pick-up and delivery rates.

Q. It is not a question necessarily of just meeting the competition; you would like it removed?

A. I do not say I would like it removed. You asked me what could be done, and I said remove it, then we could get higher revenue.

Q. But you do not want it removed; you would like to have it there?

A. It would not be human nature to say we do not want it removed, but I do not think we are going to have it removed.

Q. No, I doubt that you are. Now, Mr. Jefferson, l.c.l. traffic moves at both class rates and competitive rates; that would be a correct statement, would it?

A. Yes, sir; but competitive l.c.l. rates, yes, sir.

Q. Commpetitive l.c.l. rates and class rates?

A. Yes, sir.

Q. Havve you any idea of the proportion of the l.c.l.

traffic that moves under those two types of rates, or would that be impossible to determine?

A. No, sir, I do not think I have any idea. It may be that the way bill study which the Board is undertaking may develop some information with respect to the volume of l.c.l. traffic which moves at what we will call normal or non-competitive rates and what moves at competitive rates, because we have been required to supply them with sheet after sheet of our less than carload traffic on the days of the way bill tests, and the sheets which we have supplied them show the kind of rate that each l.c.l. shipment moved at, whether competitive rate or normal rate or what not.

Q. But at the moment within your organization there is no available data on the proportion that is carried under class rates and l.c.l. competitive rates?

A. That is right.

(Page 15803 follows)

Q. Is it your opinion, Mr. Jefferson, that traffic moving at l.c.l. rates is compensatory?

A. Well, as I said in my evidence, some is, and some isn't.

Q. Would you say how much of the "some" is and how much is not?

A. Now, sir, I could not.

Q. It is impossible to say that?

A. It is impossible to say that.

Q. It could be 75% being conpensatory or 75% being noncompensatory?

A. I don't know.

Q. You don't know?

A. No, sir.

Q. If there was, and this is a hypothetical question, a substantial volume of your total l.c.l. traffic being carried at non-compensatory rates, would you agree that the other shippers were subsidizing that traffic?

A. I would not agree that there was a large percentage that was non-conpensatory.

Q. I know; I said it was a hypothetical question.

A. In answer to your question, I would say that the transportation bill of the country has got to include all traffic whether it is carload traffic or less than carload traffic. Somebody has to pay it.

Q. But that would leave room for my suggestion that if one class of traffic, and we are discussing l.c.l., was substantially non-compensatory, that some

other class of traffic is subsidizing it?

A. Quite so, but the shippers of the country ship both carload and less than carload traffic.

THE CHAIRMAN: Has Mr. Jefferson explained why this l.c.l. traffic is non-compensatory?

MR. SHEPARD: I think in his direct evidence, Mr. Chairman, he did explain the problem that arises through way freight carriage, and I am sure that if you wish to hear from Mr. Evans he could explain it further.

THE CHAIRMAN: Perhaps you had better tell us now, why you say this particular traffic is non-compensatory?

THE WITNESS: In my direct evidence, when I was explaining, I think, pages 66 to 71 of the Appendix to Part I about very light loading of way freight cars from representative points in both Eastern Canada and Western Canada and the very low earnings, while the earnings are not shown in the statement, the very low earnings per car and per carmile - you can't show that those movements in themselves were compensatory. They were extremely low, but it is a service that you have got to give on your branch lines.

Q. It is not because the rates themselves are not compensatory?

A. Not because the rates themselves are not compensatory, but the volume.

COMMISSIONER INNIS: You have no division regionally as to l.c.l. traffic? Did you give that in your evidence? Did you give in your evidence

any breakdown regionally for l.c.l. traffic?

MR. EVANS: There are some pages that show the loadings of way freight cars east and west.

COMMISSIONER INNIS: Well, I was more interested in the total.

THE CHAIRMAN: I suppose it means you have to carry cars that are only partially full. Is that it?

THE WITNESS: That is it, yes, sir.

COMMISSIONER INNIS: Is that type of traffic particularly subject to truck competition?

A. Some of it is, yes, sir. On your branch lines in the east and west you have truck competition out of the larger centres to these branch line points.

Q. Is part of the problem also the difficulty of abandoning branch lines?

A. It has not anything to do with the abandoning of branch lines. A branch line may originate or terminate a reasonable volume of carload traffic but the volume of less than carload traffic may be extremely small, but you have to serve it.

Q. I am thinking of areas in which you would like to abandon lines, but it has been prohibited by the Board?

A. Well, I cannot speak in a positive sense, but I would not think that any suggested abandonment of lines would rest solely on the volume of traffic.

Q. I am not saying that. Most of those lines would be l.c.l.?

A. The branch lines?

Q. Yes, most of those would be l.c.l. traffic?

A. No, they would be carload traffic.

COMMISSIONER ANGUS: Is it possible to have a sort of partial abandonment, such as the abandonment of l.c.l. traffic on a branch line? Is that ever allowed by the Board?

MR. EVANS: I suppose there is if the Company said to the Board: "We would like to carry our l.c.l. traffic on a truck".

MR. SHEPARD: I would presume, Dr. Angus, if that was done, that the desired result as far as the railway is concerned of saving money, would not be brought about, because they would have to continue to maintain the line and the bulk of their overhead on that line would continue as long as they are hauling any traffic.

COMMISSIONER INNIS: I got the impression from Mr. Jefferson that it was the branch line that really created the problem of l.c.l. traffic. Is that true?

THE WITNESS: Yes, but main line too, where you operate your way freight cars.

Q. It is not so striking?

A. Not so striking as branchlines.The main line between terminals you have got to operate way freight cars.

MR. EVANS: I would say there is perhaps one feature of this that might be of interest to the Commission, and that is this, as Mr. Jefferson has pointed out several times, that you have to serve these

lines for carload traffic and if you put an extra car on a way freight train, and you used that to load and unload l.c.l. traffic from it, it is sometimes a very different measure of allocation of cost on that. That might have a bearing on this very problem. You might find in a study of a particular movement of a way freight train, that the added cost of putting an extra car on a train that would have to move anywhere would be relatively small.

COMMISSIONER INNIS: But as opposed to that, you would probably have to stop at every station and take something out of the car?

MR. EVANS: Yes, there are all those features you would have to look into, but short of a study of that kind, you cannot say with any degree of accuracy at any time, that a given situation existed.

MR. SHEPARD: Then, Mr. Jefferson, would you turn to page 81, of Part I, and I wanted first to read the last sentence in the top paragraph on page 81, which is this:-

"Ton mile earnings are, however, an important consideration in the case of l.c.l. rates."?

A. Yes, sir.

Q. And then the table at the bottom of the page, Table I, headed "System - Rail Lines Only", the last item on the left hand side is "Average Rate per Ton Mile" and then in the first column you say "Less than Carload Traffic $4.37, Carload Traffic $1.04". Now, first of all, I wanted to ask you whether you consider that those two figures indicate

that l.c.l. traffic is compensatory?

A. Well, I would say reasonably so. On pages 72 to 79 of the Appendix to Part I, we show the ton mile earnings for many representative movements of less than carload freight.

Q. And they are all fairly high?

A. Both eastern and Western Canada, and true, the ton mile earnings are higher on the higher classes than on the lower classes, that is, Class I and 2 have a higher ton mile earning than Classes 3 & 4 for the same movement, but I have made no study to show whether $4.37 a ton mile as an average of less than carload traffic is in itself compensatory or not.

Q. I have another short statement of arithmetic, Mr. Chairman, which I would like the reporter to include in the record at this time.

COMPUTATION OF REVENUE PER CAR 1948

		Carload Traffic	L.C.L. Traffic
1.	Revenue (P. 81)	$256,144,339	$29,760,011
2.	No. of carloadings @ 35.97 tons for carload and 4.78 tons for L.C.L. traffic	1,624,725	333,783
3.	Average revenue per car (Divide 2. into 1.)	$157.65	$89.17

Q. (cont.) It is headed "Computation of Revenue per Car 1948", actual Canadian Pacific Railway

figures, and the revenue figures are taken from the same Table I on page 81 of Part I, of the Canadian Pacific Railway Submission . They are shown in the second line of that table. Carload traffic revenue is something in excess of $256 million. L.C.L. traffic revenue was just under $30 million, and Item two on the statement includes the number of carloadings which shows on the statement which I have already put in at 39.97 tons per carload and 4.78 tons for l.c.l. traffic at $1,600,000 odd for carload traffic, number of cars loaded nearly 334,000 carloads of l.c.l. traffic. Then, Item 3 on the statement, by dividing Item 2 into Item 1, brings out an average revenue per car on carload traffic of $157.65 and l.c.l. traffic $89.16.

If this calculation is correct, Mr. Jefferson, I presume that you would agree with me that it shows that the average revnnue per car, l.c.l. is only slightly more than half of the average revenue per car of carload freight?

A. Of course, these computations which you have given us, the one just now, and the one that you gave us a little while ago, any computations of carloads are from hypothetical cases. They consider how many tons and the revenue in all of the, I am going to call, intra-Canadian traffic, that is traffic loaded in Canada. Now, there is international traffic, overhead traffic, and intra-Canadian traffic involved in the movement of all this traffic. Now, in your last statement of computation of revenue per car, I do not know what value it is to show that the average revenue per car for

carload traffic is nearly double the average revenue per car for less than carload traffic without knowing the average miles that each is hauled.

Q. Well, would you agree that it would have the same value as the per ton mile comparison that you have on page 47, $4.37 as opposed to $1.04? It is just one thing to look at when you are trying to make a comparison?

A. Well, the ton miles in Table 1 at the bottom of page 81, that is the total, in the column headed "Total" $1.13 average rate per ton mile, that is an accounting figure, a definite figure, but when you take the average rate per ton mile for less than carload traffic of $4.37 and for carload traffic of $1.04 it is not actual. It is not an accounting figure, because we had to estimate the tons one mile for less than carload traffic and for carload traffic, and in estimating the tons one mile divided or apportioned the tons one mile expressed in thousands were 252.18,400 and we apportioned it in the same manner that the tons were apportioned, but I do not say that it is accurate, but it was just one test that we could make.

Q. And this is another that I have just given to you?

A. I beg your pardon?

Q. What I have just presented to you would be another test?

A. Yes, it is a test. You can use it for what value you want to, but I do not know what good it is without knowing the miles hauled.

Q. Well, the miles hauled, or at least carmiles were shown in your own brief, but this figure was not, and I thought this would assist in presenting perhaps a more complete picture.

A. We have not the average miles hauled for carload freight in this table anyway.

Q. But the average revenue per ton mile is in there, which must be based on total haul; otherwise, how would you get an average?

MR. EVANS: It is based on the assumption that the haul is the same on less than carload as for carload traffic.

(Page 15812 follows)

MR. SHEPARD: Q. Now, I am going to leave the subject of less than carload rates and turn to Page 87 of Part I where I find the heading "Agreed Charge Tariffs".

I think you have stated in your evidence that, in your view, agreed charges meet with Mr. Walker's test as to whether they are compensatory or not.

A. Yes, sir. I think my evidence shows that too.

Q. Yes. And your view is also, I think, stated in the evidence, that agreed charges are made available to anyone?

A. Made available to?

Q. To anyone who is willing to sign the agreement.

THE CHAIRMAN: Well, of course, the Act covers all that.

MR. SHEPARD: Q. Yes, sir.

A. I think the figures on the table at the foot of Page 89 show the compensatory nature of the agreed charges.

Q. We have discussed that already, this morning.

A. Yes, sir.

Q. I was going on to the point that agreed charges are available to anyone who will sign an agreement in similar terms to an agreement which you have already negotiated.

A. Yes. It is mutual. We both want to make an agreed charge. If we make an agreed charge with some one, then, if someone else should want the same agreed charge, and is willing to abide by the terms of the agreed charge, we will make it with him.

Q. And the chief term is that he will give you either all his traffic, or whatever percentage of the traffic you may negotiate between yourselves?

A. As we may agree upon, yes, sir.

Q. So actually, the only difference between an agreed charge and a competitive rate is this factor under which you are guaranteed the traffic. Would you agree with me on that?

A. In part. It is very simple. Let us say there is traffic from Point A to Point B; and let us say there are two shippers at Point A shipping to Point B. Shipper "A" at point "A" says he will make an agreed charge with you and will give you all the business.

Shipper "B," on the other hand, says: I want an agreed charge, but I won't agree to give you all my business.

So, you won't make an agreed charge with him. You would meet that competition by publishing a commodity rate there, from A to B.

Then, taking the case of A to B, you may have a shipper who says he will give you all the business for an agreed charge, while the other shipper said he would not. He would avail himself ot the competitive rate when he wanted to ship by a competitive rate mode of transportation, whenever he wanted to.

Q. Yes. And that brings me to my next and last point on agreed charges. You referred to the second man?

A. Yes, sir.

Q. A moment ago, who said he would not give you all the traffic.

A. Yes, sir.

Q. Which some other shipper had given you.

A. Yes.

Q. Suppose the second man said: I cannot give you all the traffic because I have outlets which I must service, but which are served by a railway.

A. What do you mean?

Q. I mean his retail outlets for his products; he is shipping to some points where there is no rail service to those points.

A. If, well, if there is no rail service, that is another matter.

Suppose we take a point in Manitoba, let us say, Winnipeg to Brandon.

Q. Yes.

A. Suppose there are two shippers shipping from Winnipeg to Brandon.

Shipper A says that he will give you all his business if you give him an agreed charge. So we make an agreed charge with him, if there is any competitive necessity for an agreed charge.

Then suppose that Shipper B says: I won't give you more than 50 per cent, or more than 80 per cent of my traffic, but I still want to have an agreed charge. We would not make an agreed charge with Shipper B.

Q. But suppose Shipper B comes to you and says: "50 per cent of my traffic is distributed into areas which are not served by railways, while the other 50 per cent goes into areas which are served by railways." Would you make an agreed charge with him for 50 per cent of his traffic?

A. That is not what I said at all. I was talking about Winnipeg to Brandon, where there are railways.

Q. I know. But suppose you consider my situation which I have just given you.

A. We do not have any.

Q. I have in mind a man who is distributing a commodity, let us say, from Winnipeg all over Manitoba?

A. Yes, sir.

Q. And he ships 50 per cent of his commodity from Winnipeg to Brandon; and he ships the other 50 per cent

[illegible]

[illegible]

[illegible]

to areas, some of which cannot be reached by rail?

A. We would only include in the agreement what he did ship from Winnipeg to Brandon. That is all.

Q. In other words, you would give him an agreed charge if he undertook to ship all the traffic that he could ship by rail, whether or not that was all the traffic that he did, in fact, ship?

THE CHAIRMAN: Q. Does the agreed charge not contemplate shipping from one point to another?

A. That was the illustration I was giving, such as Winnipeg.

Q. It does not affect the traffic going elsewhere?

MR. SHEPARD: Q. I wanted to make sure about that.

A. If we make an agreed charge with a man wherein we cover rates, in the agreed charge, from distributing points to points where an agreed charge is necessary to meet competition, we provide, in the agreed charge, that in addition to giving us his traffic, he will give us all his traffic. When I say "us" I mean the railways. I am not talking about the Canadian Pacific alone.

Now, if there is any traffic moving to a point where there is no railroad at all, that is another matter.

Q. And he will be permitted to do that?

A. Yes, sir.

Q. You do not look at his total volume in a year and say: We must have all the outcome from your plant?

A. No. I do not know of any agreed charge where we provide that a shipper has got to give his business to a point where a railroad does not exist.

Q. But if he wanted an agreed charge badly enough, it might result in his restricting his shipments?

A. Oh, no. We might require him to ship it as far as he could by railroad.

[illegible] be pushed by mill.

[illegible] in the agreement which he did ship from Virginia [illegible]. That is all.

[illegible] give him an [illegible] that he could which [illegible], whether [illegible] that [illegible] all the country that [illegible], in fact, [illegible]?

THE CHAIRMAN: Q. Does the agreement [illegible] shipping from one point [illegible]?

A. [illegible] was the illustration I was giving, such as [illegible].

Q. [illegible] the first [illegible] elsewhere?

MR. [illegible]: I wanted to [illegible] sure about that.

Q. [illegible] with a man wherein [illegible], in [illegible] charge, for distributing [illegible] is necessary [illegible], in the case of charge, [illegible] in addition to [illegible] his profit, he will [illegible], when I say "as" I [illegible]. I am not [illegible] the Chandler [illegible].

[illegible] any [illegible] there is no [illegible] matter.

A. And it will be [illegible].

Q. [illegible].

A. [illegible] the total volume in [illegible] years [illegible] from group [illegible].

Q. Mr. [illegible] charge, where [illegible] give his [illegible] where a [illegible] not [illegible].

A. But if he wanted [illegible] badly enough, [illegible] might result [illegible].

Q. [illegible] might require him [illegible] by [illegible].

Q. I see.

A. But not to a point where the railroad had no tracks.

Q. I can quite understand that.

A. We have got an agreed charge on eggs from Manitoba and Saskatchewan to Manitoba.

THE CHAIRMAN: Q. From where?

A. From Manitoba and Saskatchewan points, let us say to Winnipeg.

Q. Yes?

A. On eggs in less than carload lots.

Now, in that agreed charge, in the description of the traffic, we say:

"That the shippers . . ."

Who are the signatories to the agreed charge, will ship:

"All Eggs handled by, for, or inconnection with the business of the Shipper, except that the traffic to be handled hereunder for account of the Manitoba Co-operative Poultry Marketing Association, Limited shall not be less than eighty per cent (80%) of the aggregate volume received per annum by that firm, from the territory in Manitoba and Saskatchewan within a radius of 300 miles of Winnipeg, hereinafter called 'the said traffic'".

Q. It has to be a percentage of the total traffic, no matter where it originates?

A. 80 per cent of his entire volume. Apparently the 20 per cent gives him plenty of leeway to cover any movements for shipments or points where there is no railway, or where there is a shipment from points where there is a railway, but he did not wish to use the railway.

Q. And if there should be a heavier production of eggs in an area not served by a railway, in a given year,

he might have to forego taking part of that, so that he would not have less than 80 per cent shipped by rail.

A. In such a case he would ask for a revision of the agreed charge.

Q. Yes, but would he get it?

A. We would discuss it with him, and if his case warranted it, he would get it.

COMMISSIONER ANGUS: Q. Suppose another shipper asked to be admitted to the same agreement, and you were quite sure of getting 50 per cent from the points which were not on the railway at all?

A. We would tell him he was not eligible; or, we might -- and I do not think we have done this, because I do not know of any instance -- we might negotiate an agreed charge with him, but on a higher basis.

THE CHAIRMAN: Q. What does the Act do with him; with any shipper who says that his business would be unjustly discriminated against, and is in that position?

A. He can go to the Board and get a fixed charge.

If, in the case which Dr. Angus mentioned, the Board should say that he should be eligible, then we would have to make him eligible I suppose.

MR. SHEPARD: That is right.

THE CHAIRMAN: So far as those people who have entered into agreed charges, are concerned, have we heard any complaint from any of them, any one or more of them?

MR. SHEPARD: Who have entered into it?

THE CHAIRMAN: Yes.

MR. SHEPARD: No, sir. The illustration I have in mind, and it is the only one, and we had a considerable number of words on it in Winnipeg, is that of the Anglo Canadian Oil, with respect to which Mr. Christian gave evidence in Winnipeg?

THE CHAIRMAN: His grievance was that the others were getting an agreed charge, while he was not.

MR. SHEPARD: That is correct.

THE CHAIRMAN: I wondered if any parties to an agreed charge had any complaints to make.

MR. SHEPARD: Not so far as I know, but my knowledge is limited.

Q. Turning now to Page 152 of Part I, I have got one or two very brief questions on the subject of the Crow's Nest Grain rates.

At the top of Page 152, the second line, these two sentences appear:

"The vesting of jurisdiction in the Board in connection with grain and flour is necessary in order that rates may be just and reasonable for other kinds of traffic. This is so because if the grain rates are deficient the rates on the other traffic must be forced to a higher level than otherwise would be justified."

Now, there was just some doubt in my mind arising out of a question which Mr. MacPherson asked you the other day.

I think at some place in the material before us from the Canadian Pacific there is made a statement that if grain rates had been in with the other rates subject to the 30 per cent application, that is, instead of a 21 per cent increase coming out of that Judgment, the increase should have been 18 per cent?

A. That is right.

Q. Would you suggest that that would have satisfied the Canadian Pacific under the present conditions, if that had been done, while it might have relieved other shippers,

it would not have gone further towards relieving financial need which is alleged by the Canadian Pacific than the 21 per cent increase on the balance of the traffic?

A. The integrated increase would not have satisfied the Canadian Pacific.

Q. No.

A. But the increase that was made in the rates would have been more evenly distributed.

Q. Yes. But you made quite a point of the other shippers. I think you have gone so far as to say that it is one of the principal reasons why you advocate the repeal of this section, that the other shippers are having to pay, having to take the burden of the increases and pay rates higher than they would otherwise pay.

I take it that is only true, if, in fact, the total revenue of the Canadian Pacific today is sufficient for their purposes. In other words, you object to not having these rates removed from the statute. You are not going to take a decrease in some of the other rates?

A. I do not know that I follow you. But it does not make any difference, if there is an increase in rates, we say as one of our points, that the rates would be less on all traffic, if the rates on all commodities were increased.

Q. But bearing in mind the repeated pleas of the Canadian Pacific in recent years of financial need?

A. Yes, sir.

Q. Now, if, today, grain rates were put under the Board of Transport Commissioners?

A. Yes, sir.

Q. Do you visualize, under the alleged need by the Canadian Pacific, a reduction of other rates and an increase

in grain rates?

A. Not at the present moment, when we need more money and have an application before the Board for a further increase in rates.

Q. That is exactly the point, yes.

A. Now, turning to Page 160, my last question on the subject of grain rates, in the second paragraph, the second sentence starting on the fourth line down in that paragraph:

> "Rather the question is whether the burden of the original obligation having been transferred to others, not parties to the agreement, those others are to be required to continue to carry that burden."

Now, who are those others you are referring to there? Are these other shippers that we have just been discussing?

A. It could be other shippers or other railways.

Q. It could be both?

A. Yes.

Q. And with them you would include the farmers of Western Canada, who are getting the benefits, it is alleged by the Canadian Pacific, that they are getting under the Crow's Nest rates now? Some of the others would be the farmers of the West?

A. Why.

Q. I am asking you. They are the shippers?

THE CHAIRMAN: What is the point?

MR. SHEPARD: My point is, sir: there is a suggestion in the Canadian Pacific brief that the rates on other traffic are now presumably, in the West, too high because of the alleged depressed rate on grain.

THE CHAIRMAN: Do you think that what they are dealing with -- that they have dealt with that?

[illegible] in mind?

A. No, [illegible] present [illegible] moment, when we need more money, and have an application before the Board, the question may arise in regard to that.

Q. That is not the point, now.

A. Now, turning to page 160, my last question on the subject of [illegible], in the second paragraph, the second sentence, beginning on the fourth line down in that paragraph:

"[illegible] the question is whether the burden [illegible]

[illegible]

[illegible]

[illegible] [illegible]

[illegible]."

Now, [illegible]

[illegible]

[illegible]

Q. [illegible]

A. It would be both?

Q. Yes.

A. And with them you would include [illegible] of Western Canada, who are [illegible] by the Canadian Pacific, that the [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

suggestion in the Canadian [illegible]

[illegible]

because of the [illegible] depressed [illegible].

THE CHAIRMAN: Do you think [illegible] the [illegible] dealing with -- that they have dealt with that.

It seems to me that what they are talking about is carriers, in that paragraph. It is rather a question of where the burden of original application of the contract lies. Did you not have in mind the Canadian National Railways?

MR. EVANS: I had it, in part.

THE CHAIRMAN: You had other shippers too?

MR. EVANS: Oh my, yes.

THE CHAIRMAN: You speak of the burden of the original application having been transferred to others who are not parties to the agreement. You cannot imagine a shipper being a party to that original agreement. So it must have had reference to other carriers.

MR. EVANS: No, sir. We do mean other shippers, and we would still make that statement.

THE CHAIRMAN: And you don't mean other carriers?

MR. EVANS: We also mean other carriers.

COMMISSIONER ANGUS: It can be extended to other carriers, but it could not be transferred to them. It can be transferred to the shipper.

MR. EVANS: If you speak in the general language which we sometimes adopt in this brief, you lift the burden from someone's shoulders and transfer it to others. So in that sense it is a transfer of the burden.

MR. SHEPARD: My only point in bringing up this matter was that it occurred to me that a substantial segment of the shippers of Western Canada are in fact farmers; and so long as they are content, and pay whatever rates they pay on their imported commodities -- but we have not heard any complaints about that; and it does not seem to me that the reasoning here is as strong as it could be.

THE CHAIRMAN: Are you not complaining about the import rates?

It seems to me that what they're talking about is surplus, in that paragraph. [illegible] where the bu[illegible] [illegible] might [illegible] of the [illegible] it [illegible]. Did [illegible] have in mind the [illegible] Railway;

MR. EVANS: I think it, in part.

[illegible]: [illegible] other [illegible]

MR. [illegible]: [illegible]

MR. [illegible]: [illegible] of the burden of the original [illegible] there [illegible] sitting [illegible] part, to that original [illegible]. [illegible] and interest [illegible] there [illegible].

MR. EVANS: No, sir. We do not [illegible] figures, and we would [illegible] make that statement.

MR. CHAIRMAN: and you don't [illegible] want.

MR. EVANS: We [illegible] them [illegible].

[illegible]: [illegible] there surplus, but it could not be [illegible] them, [illegible] be [illegible] to the shippers.

[illegible]ANS: If you [illegible] in the [illegible] language which we [illegible] in this brief, [illegible] [illegible] there. [illegible] in that sense it is [illegible]

MR. [illegible]: [illegible] bringing [illegible]

[illegible] that it occurred to me that a substantial amount of the [illegible]; and [illegible] the [illegible], [illegible] rates [illegible] have [illegible] about that; [illegible] seem to me that [illegible].

MR. CHAIRMAN: Are you not completing [illegible]

[illegible]

MR. SHEPARD: All they are complaining about is unjust discrimination.

THE WITNESS: There are a lot of shippers in Western Canada who are not farmers.

Q. I am not suggesting there are. I do suggest that an important number of shippers in the West are farmers.

A. There is an important group; but the percentage of grain to total traffic, I do not know what it is offhand.

The percentage of grain? Total traffic originated or received in Western Canada is not all grain.

Q. I know, but I think we have been through this discussion before. Actually the total traffic is also partly made up of goods consumed by the farmers who ship grain. And that is my principal point.

A. Quite right, but not all of it.

Q. No, not all of it.

MR. EVANS: I am quarrelling with your suggestion that they were objecting to bearing that burden.

MR. SHEPARD: I think I put on the record the other day that, so far as our geographic and economic disadvantages in the West are concerned, we were prepared to accept them, so far as there was any discrimination for or against us, in that area.

THE CHAIRMAN: I noticed in this paragraph that the Canadian Pacific says that it was found impossible to limit their application to the Canadian Pacific and, in consequence, the railways not parties to the agreement were forced to apply these rates. I thought that latter paragraph was meant to carry that thought out.

COMMISSIONER INNIS: You are not uneasy, or worried about what the burdens on other people are?

MR. EVANS: We do not think it is fair.

[illegible]

[illegible]

[illegible]

COMMISSIONER INNIS: You do not think it is fair, from your point of view?

MR. EVANS: From our point of view we do not think it is fair that you should keep on increasing one section of the total traffic. It is possible that if you had a period of actual inflation you might actually destroy that traffic, while at the same time this level of rates would remain fixed.

COMMISSIONER INNIS: Yes, I find it rather difficult to become accustomed to people who are thinking of other people's interests.

MR. EVANS: There is no doubt about that.

MR. SHEPARD: I wanted to turn to another subject, but it may be that your lordship may feel this is a good time to adjourn for lunch.

THE CHAIRMAN: Yes, we shall adjourn until this afternoon.

--- At 1:00 p.m. the Commission adjourned until 2:45 p.m. today.

Ottawa, Monday, February 20, 1950.

AFTERNOON SESSION

MR. C. E. JEFFERSON - Recalled.

Cross examination continued by Mr. Shepard:

MR. SHEPARD: Mr. Chairman, I have only very few points left to cover. I want to turn now to Part II of the Canadian Pacific submission, at page 56, which is the second page of the section dealing with horizontal or flat percentage increases in freight rates. This is a subject which my friend Mr. Smith will be discussing in more detail with Mr. Jefferson, and possibly my friend Mr. Barry, but it was the subject on which I wanted to ask Mr. Jefferson one question.

Q. If you will count up from the bottom of page 56, Mr. Jefferson, seven lines, you will find this sentence, which I should now like to read to you:

> "In Canada, however, there are relatively few railroads and therefore the competition, so far as it relates to their geographical location, is not of the same importance to the railway systems as in the United States."

I think I would accept that statement, but I wondered if perhaps the converse would not be true, in this sense, that while the competition is not so serious from the point of view of the railways, it is more serious from the point of view of consumers of freight services.

THE CHAIRMAN: Competition is more serious?

MR. SHEPARD: The lack of competition in Canada as opposed to heavy competition in the United States.

THE CHAIRMAN: I see what you mean.

THE WITNESS: What is the question?

MR. SHEPARD: Q. . . . would be more serious in Canada to the consumer of freight than to the railways.

A. I don't know that that is so. If you had more carriers in Canada you might well have a higher level of rate than you have today with only two principal carriers in Canada.

Q. You might have?

A. Yes, sir.

Q. But the fact would remain that the consumer is interested in having his interests protected against any monopolistic features that may exist as a result of any relative lack of competition in Canada.

A. Of course, I don't think that two railways in Canada is harmful to the consumer.

Q. I am not suggesting that they are. I take it you disagree with the proposition I put to you, do you?

A. That the fact that we have less carriers in Canada than in the United States -- that it is more harmful to the consumer -- I would say no.

Q. I will put it to you this way: the consumers are perhaps more interested in having adequate regulations here than they would be if there was more competition.

A. Well, I don't know. I think they have got plenty of regulation in this country.

Q. Well, I do not wish to pursue the subject. Then, Mr. Jefferson, my next point deals with Exhibit 171, which you filed during your direct examination with respect to the subject of equalization of rates.

The subject of equalization, Mr. Chairman, starts at Page 64 of Part II, but I am going to ask just a couple of questions on Exhibit 171, and not refer to the text of the submission. This Exhibit is headed "Increases and Reductions in Freight Rates in Ontario --"

THE CHAIRMAN: What page did you say?

MR. SHEPARD: I am just referring to the Exhibit in connection with this subject. It is headed "Increases and Reductions in Freight Rates in Ontario and Quebec, Compared with Prairie Territory and Pacific Territory."

Q. The Exhibit has already been explained to us by you in your direct examination. I just want to suggest to you, Mr. Jefferson, that the percentages that we arrive at at the bottom of this Exhibit, 147 per cent, 97 per cent and 51 per cent, which represent the increases over 1914 of 100 per cent.

A. Over 1914, that is right.

Q. Taken as a hundred per cent?

A. Yes, sir.

Q. So that the validity of the Exhibit to some extent is based on the assumption that the proper relationship existed on September 1, 1914; that it was proper to take it as being a hundred per cent at that time.

A. Well, the Board in 1914 set many rates say in the West in the decision, in what is known as the Western Rates Case; and at that time the rates set were considered to be reasonable with the rates in Eastern Canada.

Q. I am not going into what the rates were at that time; I am simply pointing out that if this Exhibit is taken as proving anything, you must also take the 100 which appears in the three columns as being the proper figure to appear in those three columns to start with.

A. In 1914?

Q. 1914.

A. Yes, sir.

MR. EVANS: It is an index.

MR. SHEPARD: Yes, it is an index of 1914, and

has changed from time to time up to the present.

THE CHAIRMAN: There is one for the Eastern rate, 1916, which is also put down as 100. The one you are referring to, 1914, is the Western rates. The other one is the Eastern Rates Case and they are both 100, and are two years apart?

THE WITNESS: They are both 100, so far as the Prairie and the Pacific Territory are concerned ,but Eastern Rates Case Decision brought the Ontario and Quebec index from 100 in 1914 to 105 in 1916.

Q. Yes, I see that in the first column.

A. Yes, sir.

MR. SHEPARD: My only point, Mr. Chairman, was that the Exhibit assumes that the level was proper in 1914, because it is allotted an index number of 100 in each of those areas in that year.

THE CHAIRMAN: In each of the three territories?

MR. SHEPARD: Yes. To me it assumes that -- perhaps I am wrong.

THE CHAIRMAN: In 1916 it varies with respect to Ontario and Quebec; they go up to 105, while the other two remain at a hundred.

MR. SHEPARD: Yes; they start applying the increases that were granted by authorities shown in the right hand column of the Exhibit right through.

THE CHAIRMAN: Yes.

MR. SHEPARD: There was only one other question I wished to ask on the Exhibit.

Q. I take it that the authorities granted the increases shown on the right hand side, which would not affect competitive traffic; they would be general rate increases affecting standard rates?

A. Well, some of the increases affected competitive rates, but in 1914 we didn't have the number of competitive

rates that we have today; but this index does not only apply to what you call standard mileage rates; it applies to all rates that had percentage increases, whether they were standard rates or special rates -- standard or special, I will say.

THE CHAIRMAN: Q. But all the increases were under Orders of the Board, were they not?

A. Yes, sir. It does not make any difference whether this 100 is 25 cents, 50 cents or 75 cents, the percentage increase would be the same.

MR. SHEPARD: That is right.

Q. The only point I was leading up to, Mr. Jefferson, was whether the competitive rates, say in Ontario and Quebec, where there are more competitive rates than in other regions, whether they have increased by 147 per cent from 1914, or whether they have not. Do you have any opinions on that?

A. I would say not in the sense that we discuss competitive rates today. Competitive rates and railway tariffs today, you may say, had their inception in large number after 1922, but the increase from 1922 on applied to competitive rates; and furthermore, many of the competitive rates have been increased by a greater amount than the increases shown since 1922.

Q. Yes, and presumably a considerable number had to be reduced during the thirties when the competition became very severe.

A. Quite so, but they have been increased very materially since 1945, we will say, -- 1946.

Q. I just wanted to point out to you the fact that in the Ontario and Quebec column -- since this is an index only and not a dollar result or even a fractional result . . .

A. You will find some competitive rates even since 1945 that may have been increased more than 100 per cent.

Q. Quite, and some have been substantially reduced.

A. Not since 1945.

Q. But none have been reduced?

A. I would say very very few.

Q. But the fact is that 147 per cent should not be applied as representing the effective increases in competitive rates during this same period?

A. No, because we didn't have competitive rates in 1914.

Q. Then turning to my final point, Mr. Jefferson, which appears on Page 106 of Part II, which is where you deal with the general subject of reparations. I do not want to refer to any specific part of that subject, but I presume that the way the reparations would work, if they were in fact included in the statutes or provision was made in the statutes for them, would be that after payment of a series of freight charges the shipper who considered himself to be aggrieved would have the machinery afforded to him to force the railways to repay the excessive charge. That is the way it works, is it?

MR. EVANS: There is a legal question there, Mr. Shepard.

THE CHAIRMAN: What is the question again?

MR. EVANS: When a shipper considers himself aggrieved, he would have the right to ask for reparations. There is quite a distinction between an aggrieved shipper who has a claim resulting from discrimination and one whose claim is based on a rate being unreasonable.

THE CHAIRMAN: That is a rate which he has paid?

MR. EVANS: Yes, sir. In a case of discrimination

his difficulty is to show actual damage. Very often in the United States this precludes him from recovering his reparations. But in the case of unreasonable rates, there is no difficulty because the Commission finds what would have been a reasonable rate. In the case of discrimination, there is actual damage which must be proved, and very seldom is proved.

MR. SHEPARD: For my purposes I will confine myself --

THE CHAIRMAN: Would that leave this kind of middle course that a rate may be unjustly discriminatory, and still he would have to show damages?

MR. EVANS: Oh yes, sir; that is consistent with the findings of the Interstate Commerce Commission in reparation cases, that unless a shipper shows actual dollar damage, he cannot get anything in reparations.

THE CHAIRMAN: Even if the rate was unjustly discriminatory?

MR. EVANS: Yes.

THE CHAIRMAN: What difference is there between an unjustly discriminatory rate on the one hand and an unreasonable rate on the other?

MR. EVANS: In that case the Commission will find what would have been the reasonable rate, and the difference between the reasonable rate and the one he has paid is the measure of reparations; but in the case of discrimination, and he has to show damage--it is like a damage action.

(Page 15832 follows)

THE CHAIRMAN: What might the damages consist of, then?

MR EVANS: Well, that is very difficult for him to show, and he frequently cannot show it.

THE CHAIRMAN: Wouldn't it be enough if he showed that he had paid too much freight?

MR EVANS: No, because if there is unjust discrimination it does not call into question the reasonableness of the rate. For example, taking A and B, one having a rate of 50¢ and the other having a rate of 40¢, A claims against the railway that he is unjustly discriminated against; he does not say, "My rate of 50¢ is too high or unreasonably high," he says merely, "I am hurt by my competitor at B having a rate of 40¢." The measure of the damage, the Interstate Commerce Commission has held, is not the difference between 40¢ and 50¢.

THE CHAIRMAN: It would be the loss of the market or something like that.

MR EVANS: Yes. In this country the railway would have the option to remove the discrimination by puttin B's rate up to 50¢, so that he does not necessarily suffer pecuniary loss.

THE CHAIRMAN: Then the unreasonable rate is one that is unreasonable per se.

MR EVANS: Exactly.

THE CHAIRMAN: Regardless of comparisons.

MR EVANS: In other words, remove the discrimination element. If the Interstate Commerce Commission were to hold that the reasonable rate, instead of 50¢ , is 40¢ , to the man who said, "I paid 50¢," the Interstate Commerce Commission says, "You should have paid only 40¢, because 40¢ is a reasonable rate, therefore your reparation is 10¢." But in a discrimination case it does not follow

that the rate is unjust or unreasonable.

MR SHEPARD: For the purpose of the question I had in mind for Mr. Jefferson, I will ask him to assume with me that it was an unreasonable rate, and the shipper was successful in effecting recovery from the railroad, and the only point I wanted to bring out is that that money that the shipper received would in fact be an extra profit to the shipper which he had already collected from the consumer of the freight services, and the consumer would derive no benefit from his recovering the reparation.

THE WITNESS: We agree with that.

THE CHAIRMAN: Before you go into that question would you please enlighten me a little further? Could any rate, then, which is fixed beneath the ceiling authorized by the Board ever be an unreasonable rate?

MR EVANS: Well, that of course is the fundamental difference between the method of ratemaking here and in the United States. In the United States a railway merely files a tariff. There is no approval of that tariff by the Interstate Commerce Commission. It is not prima facie reasonable, and it can be attacked at any time. In this country we get a previous approval before the rate becomes effective, and it is prima facie reasonable.

THE CHAIRMAN: And the Board here is supposed to see to it that there are no unreasonable rates allowed.

MR EVANS: Yes.

THE CHAIRMAN: So you would not have that; you could hardly have that question.

MR EVANS: That is our argument on that question.

THE CHAIRMAN: Yes, I see that.

MR SHEPARD: Mr. Chairman, my thinking goes along the line of the railway's thinking.

THE CHAIRMAN: What were you putting to Mr. Jeffer-

son about that?

MR SHEPARD: My question simply was that if a shipper was successful in collecting back an excessive charge that he had paid, or any part of it---

THE CHAIRMAN: Due to an unreasonable rate?

MR SHEPARD: Yes, sir, or due to any other cause; I was not particularly going into the cause of his success in collecting it back, but if he had done so the consumer of the freight service who actually paid for that would not get any benefit from the reparation.

THE CHAIRMAN: The consumer of the goods, do you mean?

MR SHEPARD: Yes,sir. If a shipper ships goods to a consignee who consumes them, the consignee presumably pays the freight charge; it is included in what he pays for the goods. If the shipper is successful in recovering part of that freight charge back, he puts it in his pocket.

THE CHAIRMAN: He does not share it with his partner.

MR SHEPARD: He does not share it with his customers.

MR EVANS: He may have a contract f.o.b., though, Mr. Shepard.

MR SHEPARD: That is quite possible.

Q. Would you agree with that general proposition?

A. I do; I agree that goods are bought and sold on the basis of the published tariff, and if a party paying the freight rate should succeed in getting reparation he would not pass that on to the party to whom he sold the goods. It would be the middleman, so to speak, who would derive the benefit.

COMMISSIONER ANGUS: To carry that one stage further , if the shipper had sold the goods at the price

he had asked, could he prove damages because his freight rate had been high? I mean, if the damages had fallen somewhere else, could he collect for them?

MR SHEPARD: If he had sold goods expecting to pay one freight rate and had to pay a higher one, do you mean, sir?

COMMISSIONER ANGUS: If he sells goods on the basis of the higher rate, the excessive freight rate, but his purchaser pays the price that covers the price quoted for the goods and the freight rate, could the vendor of the goods claim that he, the vendor, had suffered damages as a result of that? And would not his damages have to be in the form of injury to his business, restricted trade or something of that kind?

MR SHEPARD: If it was a question of proving damages I would say yes, sir, but if he could establish -- as my friend Mr. Evans has distinguished between two types of claim -- that it was an unreasonable rate, I do not think he would then have to show that damage flowed from that unreasonable rate.

THE CHAIRMAN: Mr. Shepard, are you among those who contend that the Railway Act should provide for the payment of reparations?

MR SHEPARD: No, sir; we are among those who say that it should not so provide.

THE CHAIRMAN: All right.

MR SHEPARD: That is all, thank you, Mr. Jefferson.

COMMISSIONER INNIS: Q. Coming back to page 56, Mr. Jefferson, of Part II, I think you were discussing with Mr. Shepard this difference between the American situation and the Canadian situation as to the number of roads?

A. Yes, sir.

Q. And I wondered whether you had not the possibility

of putting your finger on some very significant differences, and whether you would care to go so far as to say, for example, that the whole existence of statutory rates is because you have two railways in this country rather than because you have a great number?

A. The whole existence?

Q. Of statutory rates, yes.

A. Is because we have two railways?

Q. Yes.

THE CHAIRMAN: Only two.

COMMISSIONER INNIS: Q. Only two.

A. Only two railways? Well, it depends on how those railways became built up, but I don't know. If the Canadian Pacific had only been west of Fort William and not east, whether they would have had statutory rates or not I could not say.

Q. Well, with a great number of railways in the United States, statutory rates would surely be an exception; in fact, as far as I know they do not exist, do they?

A. They do not have statutory rates, no, sir.

Q. And you have this fundamental difference which you pointed out here, which seems to me to explain the existence of statutory rates in this country, as well as a great many other differences which make it very difficult to compare the United States and Canada?

A. I don't know that I can answer you.

Q. Well, I was just interested as to whether you had any comment.

A. I don't know whether if we had four or five railroads in Canada we would have had statutory rates or not; I don't know.

CROSS-EXAMINED BY MR SMITH:

Q. Mr. Jefferson, it is suggested, is it not, at page 56 of Part II of the submission of the Canadian Pacific Railway Company that the practice of the Interstate Commerce Commission in respect of exceptions from horizontal increases is not an authority to be applied in Canada? Those are the words used---

A. That is our thought, the thought of the railway?

Q. Is not an authority to be applied in Canada -- that the United States practice is not an authority to be applied in Canada; that is what is suggested in your brief?

A. Yes, sir.

Q. And the reason you assign for that is that the railroads themselves, you say, in the United States are responsible for the practice of having exceptions to horizontal increases?

A. Very largely, yes, sir.

Q. You also submit in that brief that this is largely attributable to what you allege to be a fact, that in the United States they have a very large number of small railway systems, whose interest lies, as you suggest, in maintaining industries located on their lines, or in inducing other industries to locate on their lines; that is your point that you make with respect to horizontal increases?

A. Well, railroads in the States are small in the sense of comparison with mileage of the Canadian Pacific or the Canadian National.

Q. I was going to go on and develop that point a bit, Mr. Jefferson. Are there not a considerable number of very large railway systems in the United States?

A. There are systems in the United States that have very substantial mileage, yes, sir.

Q. Now, do not several large systems extend from Chicago and St.Louis and other midwest cities to the Pacific Coast?

A. Yes, sir.

Q. And are there not very large railway systems also which extend from these cities to the Atlantic Coast?

A. Yes, sir; but nothing from the Atlantic to the Pacific.

Q. All right. And are there not lines which are generally called transcontinental lines which cross the great plains to the Pacific Coast?

A. A number of the railroads between Chicago and the Pacific Coast are called transcontinental lines, yes, sir.

Q. Although one system in itself does not extend from ocean to ocean?

A. That is right.

Q. These so-called transcontinental railway systems connect, do they not, on the east with the other railroad routes, either over their own rails or over lines of what are called the Grange and Southwestern Railways? I am referring now to the transcontinental railways. Is that not true?

A. Well, a number of transcontinental railroads connect with railroads at either the Mississippi River or Chicago that run east to the seaboard. Some of the so-called transcontinental routes from Chicago to the coast may be over two or three lines.

Q. Over their own lines or connecting lines?

A. That is right.

Q. So then you have a system, a continuous system, either by means of one or two railway systems, very large railway systems, extending from coast to coast, so that you have the east and west traffic and the west to east traffic?

A. Well, in no case would you have less than two railways from coast to coast.

Q. As I mentioned before, there is not one that extends from coast to coast?

A. That is right.

Q. But the point I am suggesting to you, Mr. Jefferson, is that these railway systems to which I refer are very large railway systems. Now, take for instance the New York Central; it is a very large system, is it not?

A. Yes, sir.

THE CHAIRMAN: What is its mileage, can you tell me?

MR SMITH:Q.Its mileage is approximately what? Ten thousand miles?

A. I have not the mileage of the New York Central.

Q. In the neighbourhood of ten or twelve thousand miles, lines of track?

A. I doubt if it would be ten thousand, but it may.

Q. I think I can give you the mileage.

THE CHAIRMAN: I understand it is in the Canadian National brief, so we will find it.

MR EVANS: I would have no difficulty in saying to Mr. Smith that we recognize that there are large railway systems in the United States.

MR SMITH: The point I am making is, the point has been stressed that there are a great number of very small railways, and that is the reason; that is the point. I just want to make the point that there are also very large railway systems.

(Page 15842 follows)

Q. Now, the point I also want to make with you, Mr. Jefferson, is, that while the traffic of the transcontinental traffic varies from line to line to some extent, can't it be said generally that it consists for the most part of commodities such as lumber and livestock, fresh fruit and canned goods moving east, and coal, cotton, steel, automobiles and miscellaneous manufactured commodities moving west?

A. Yes, eastbound I would agree there is lumber and canned goods.

Q. Livestock?

A. Yes, sir, and fruit and vegetables, apples and so on, and metals. Westbound I do not know about coal going west. I never heard of any coal going over the transcontinental railroad, but there is general merchandise.

Q. Automobiles and all kinds of manufactured goods?

A. Yes, sir.

Q. And I suggest to you, Mr. Jefferson, that the traffic on these transcontinental systems is not unlike that on your own railroads on the transcontinental line of your own railroad, the Canadian Pacific Railway Company?

A. That is right.

Q. Now, several of these railway systems to which I have referred traverse various territories in the United States, do they not. For instance, take the case of the Santa Fe, the Atchison, Topeka and the Santa Fe. Now, that is a very large railroad,

is it not?

A. Yes, the Santa Fe would cover the south-west as well as transcontinental.

Q. And it would be in quite a number of what are called "the territories" of the United States?

A. Yes, but that is the most extreme one. There are not any others that serve the south that cover the transcontinental territory.

Q. Well, I am just taking the Santa Fe as a very large railway system?

A. Yes.

Q. And in addition to the Santa Fe, there are such railways as the Northern Pacific which is also a very large railway?

A. Yes, purely transcontinental.

Q. And the Great Northern Railway?

A. Transcontinental, purely.

Q. Now, the Santa Fe, as you know, extends from Chicago, and it includes the Pacific Coast Territory including San Francisco, Oakland, Los Angeles, Galveston, Texas, in the south, Chicago in the east, and through connections with St. Louis, traverses the Pacific Freight Traffic Bureau, Western Traffic Lines, South-east Freight Bureau and to St. Louis on the border of the Central Territory?

A. It is pretty wide territory when you say South-east and Central Territory. I would say no to both of them.

Q. As I suggested to you, the traffic on these railways to which I have referred is quite similar

to that on your own transcontinental line?

A. Yes, sir.

Q. Now, you in your evidence referred to the question of the origin of the practice in the United States of having exceptions made to horizontal increases, and you suggested that the practice arose through the actions of the railways?

A. I said largely, yes, sir.

Q. Largely through the actions of the railways?

A. Yes, sir.

Q. Now, were you present when I presented the case for the Province of Nova Scotia, and I referred to some of the authorities in the United States on the question of horizontal increases?

A. In February?

Q. Yes.

A. No, sir, I was away.

Q. Now, the earliest case which I mentioned at that time, was the well known case of Increased Rates 1920. That goes back a long time?

A. Yes, sir.

Q. A matter of thirty years. And at that time the question of horizontal increases was raised. A horizontal increase was requested in the application and there was opposition on the part of certain shippers to such a method without any exceptions to the horizontal increase. Do you recall that matter?

A. Yes, sir.

Q. Now, I notice that at page 245 of the

Report of that case, which is 58 I.C.C. Reports it is stated - -

THE CHAIRMAN: We have had that case already?

MR. SMITH: Yes, my lord. It is stated at page 245:-

"The adoption of specific increases in cents per unit instead of a percentage increase will, of course, maintain existing relationships. However, the carriers almost uniformly opposed this method, and it is not generally advocated by shippers."

So at least at that time, thirty years ago, it cannot be said, reading from that decision, that the carriers were in favour of exceptions to horizontal increases?

A. But in that case there were not exceptions in the Commission's Decision.

Q. I know there were no exceptions. There were certain of the shippers who appeared and asked that there be exceptions, and the point I am making is, that the carriers uniformly opposed the making of exceptions?

A. At that time, yes, sir.

Q. Now, I would like to refer you, Mr. Jefferson, to a later case, the Case of Ex Parte 115. That is reported in 208 I.C.C. page 4. You will please look at page 11.

A. Yes, sir.

Q. Now, I will read the passage to which I refer. It is headed "Applicants' Proposals";

"In the various general proceedings involving horizontal changes in the general rate level in the past two decades, the issues have generally revolved around proposals to apply a uniform percentage increase or reduction to all rates. The present proposals depart from the uniform percentage plan. For the most part an increase of 10% in the present rates is proposed subject to certain maxima and exceptions, and some commodities would be subject to increases of flat amounts instead of percentages, while others would be exempted from any increase and in still other instances increases are proposed only for the longer hauls, beyond what applicants believe to be the zone of most acute truck competition".

THE CHAIRMAN:: What year was that?

MR. SMITH: That, my lord, was in 1935. Now, that was the first case in which the applicants themselvss proposed general exceptions to a horizontal increase. Is that not correct?

A. I would say so.

COMMISSIONER INNIS: Who were the applicants?

MR. SMITH: The applicants were, I think, substantially all the Class 1 railroads in the continental United States - "substantially all the Class 1 Railroad Carriers in the continental United States joined in the petition".

THE CHAIRMAN: Perhaps you have already told us and I did not hear it. Did they say what

commodities?

MR. SMITH: Oh, yes, there is a list here of the commodities.

THE CHAIRMAN: Well, if it is in the Case we will find it.

THE WITNESS: That was quite a different case than the one in recent years too.

MR. SMITH: Now, I would also like to refer you - -

THE CHAIRMAN: You say that is quite a different case from what?

THE WITNESS: In that case, as I recall it, they had an increase of one percentage on carload traffic and another percentage on less than carload traffic and arbitrary or maximum increases on many, many commodities.

MR. SMITH: Now, the next case to which I wish to refer you, Mr. Jefferson, is Ex Parte 166. That is reported in 270 I.C.C. 404.

THE CHAIRMAN: What year?

MR. SMITH: 1948, it was decided July 27, 1948. It is Ex Parte 166, and at page 404 the Case starts. Have you got it, Mr. Jefferson?

A. Yes, sir.

Q. Now, I would like to refer you to page 453. It is quite a long passage which I propose to read:

"As we pointed out in the case last cited (the last-cited case being the 58 I.C.C. which was the first case to which I referred) page 244, there are many competitive situations where no recognized differential relation of rates

has been established, but where nevertheless, rates have been made to reflect competitive conditions, and such situations greatly outnumber those in which fixed relations have been established. The application of a percentage increase to both long-and-short-haul competing shipments results in widening the amount of the difference between the rates, often to such an extent as to exclude the long-haul shipper from the common market or compel him to reduce his prices so that he has no profit."

Now, do you agree with the statement:-

"The application of a percentage increase to both long haul and short haul competing shipments results in widening the amount of the difference between the rates - - "?

A. I agree that the application of a percentage increase in rates widens the difference between the increase in a low rate and the increase in a high rate, that is, that it widens the difference in hundred pounds.

Q. Do you agree with the further statement:-

"...often to such an extent as to exclude the long haul shipper from the common market or to compel him to reduce his prices so that he has no profit"?

A. I do not agree with that, no, sir.

Q. You do not agree with that?

A. No, sir.

THE CHAIRMAN: When Mr. Jefferson says he

"does not agree with that" he is transferring it to Canada, is he not?

THE WITNESS: Yes, sir. I am not disputing what is said in the decision - -

MR. SMITH: The question I am asking you, I don't think Canada has any connection with.

THE CHAIRMAN: Are you reading from the findings of the Commission?

MR. SMITH: I am reading from the findings of the Commission, but it is a general statement, I submit, my lord, not related to any country.

THE CHAIRMAN: Well, it must be a matter related to the facts of the case.

MR. SMITH: It says:-

> "The application of a percentage increase to both long haul and short haul competing shipments results in widening the amount of difference between the rates".

THE CHAIRMAN: Well, what is the case in the matter they are dealing with?

MR. SMITH: They are dealing with the question of long-and-short-haul rates generally, I submit. That is a dictum laid down as to the effect of a horizontal increase in any instance, as I suggest.

THE CHAIRMAN: Now you are asking Mr. Jefferson - -

MR. SMITH: I asked him if he agrees that that could be accepted as a general statement applicable both to the United States and to Canada or to any other country.

MR. EVANS: He has given you the answer.

MR. SMITH: What do you say as to that?

THE WITNESS: I said I agreed with the first part of the sentence, but did not agree with the second part of the sentence.

THE CHAIRMAN: What part do you agree with?

A. I told Mr. Smith, that I agreed with the part of the sentence reading:-

> "The application of a percentage increase to both long-and-short-haul competing shipments results in widening the amount of the difference between the rates."

I told him I agreed with that in cents per hundred pounds. Then, It says:-

> "....often to such an extent as to exclude the long haul shipper from the common market or compel him to reduce his prices so that he has no profit".

And I told him I did not agree with that.

Q. Well, you see the Board says: "This often happens"but in respect then to Canada, what do you say?

A. I say, as I said in my evidence, that it does not happen in Canada, if the price of the goods has gone up and increased to the same extent or more than the freight rates.

Q. Do you think it would be applicable in the United States?

A. I would think it would be applicable there too.

Q. The Board finds that and says "It often happens".

A. They say "often to such an extent as to exclude...".

Q. It would appear that they have instances there with that result having come along.

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(Page 15852 follows)

COMMISSIONER INNIS: Q. You agree up to that point?

A. Up to that point, yes.

THE CHAIRMAN: Q. But not including that?

A. I agree that if you increase a 20 cent rate 20 per cent, and increase a dollar rate 20 per cent, you increase the dollar rate more per hundred pounds than the 20 cent rate?

Q. That goes without saying.

COMMISSIONER INNIS: Q. It seems to be inevitable that the second part is saying in a different way what the first part said?

A. Not necessarily, because as I said in my evidence, if the price goes up 50 per cent and the freight rate goes up 20 per cent, the long distance shipper is really at a better advantage than he was before.

MR. SMITH: Q. Has there been a great increase in general commodities in the United States as well as in Canada?

A. No doubt.

Q. And at the time when this Judgment was delivered in 1948 was not the situation quite parallel with respect to the increases in the general price level in the United States and Canada?

A. There had been increases in prices in both countries.

Q. And notwithstanding the fact that there had been increases, the Commission were of the opinion that the application of a percentage increase had the effect of excluding the short haulers from the common market, or compelling him to reduce his price so that he had no profit?

A. Not always; they said it could happen, but not always.

MR. EVANS: No, no.

MR. SMITH: My lord, these "no, no" that come from my back . . .

THE CHAIRMAN: Read it again. It says: "often".

MR. SMITH: Yes, sir.

THE CHAIRMAN: Then read it again.

MR. SMITH: It says:

"The application of a percentage increase to both long and short haul competing shipments results in widening the amount of difference between the rates --"

I don't think there is any dispute about that statement.

" -- often to such an extent as to exclude the long haul shipper from the common market or to compel him to reduce his price so that he has no profit."

THE CHAIRMAN: That looks to be a statement founded on experience.

MR. SMITH: Founded on experience.

COMMISSIONER ANGUS: My difficulty with that, Mr. Smith, is that "often" might mean one of two things; first, it might mean the case of a great many commodities, and secondly it might mean a great many increases, and that might depend on whether the increase was in the order of 20 per cent, 30 per cent, or 40 per cent.

MR. SMITH: With respect, I don't think they are dealing with that question; they do deal with that in a later part of the Judgment. With respect, I do not think they are dealing with it in that connection at that point. If you study the Judgment I think you will find they are not considering the cumulative effect.

THE CHAIRMAN: What did the Judgment do in the long run?

MR. SMITH: I will deal with that. I rather prefer to bring this out in another way, because I think that I will show that they dealt with it in a very substantial manner.

THE CHAIRMAN: When will you show us that?

MR. SMITH: I promise you, my lord, I will be less than an hour.

THE CHAIRMAN: I am not talking about time.

COMMISSIONER ANGUS: Your interpretation, Mr. Smith, is --

MR. SMITH: There are many cases in respect of the various commodities, in respect of both markets and commodities. In any event, what I propose to do is read to you the last statement contained on this page 453.

Q. I will suggest to you, Mr. Jefferson, the persons who really devised the system of making exceptions to horizontal increases. The page to which I refer is the bottom of page 453:

> "The system of making increases devised was generally similar to that employed by us in certain rate proceedings".

I suggest to you that that clearly indicates that the system of exceptions was one employed in previous rate proceedings by the Commission, and did not originate with the railways.

A. Well, I say that if you compare the railways' applications to the Interstate Commerce Commission, with the decisions of the Interstate Commerce Commission, you will find what I said in my evidence is correct, that the railways asked for a lot of exceptions.

Q. I will deal with it in another way.

THE CHAIRMAN: You have not told us what happened in that case. You will do that later?

MR. SMITH: Later, yes, my lord.

Q. I would ask you to look at another case, which is the last decision to which I propose to refer at this time; I think it was the last decision of the Interstate Commerce Commission on the question of horizontal increases. I refer to Ex Parte 168, which is reported in 276, I.C.C., Page 9.

THE CHAIRMAN: What year?

MR. SMITH: 1949, my lord.

Q. Page 17 is the first paragraph to which I wish to refer you, Mr. Jefferson:-

> "With very few exceptions the attitude of the shippers and public bodies appearing as protestants is one of forceful opposition to any further increases in freight rates and charges...In general, their positions show the diversity of interests, borne out of competitive relations between localities and also as between commodities that have characterized every general rate increase case -- magnified in intensity as the cumulative effects of previous increases, and present proposals are felt sharply."

I think you will agree with me, Mr. Jefferson, that the Commission there referred to the position taken by shippers?

A. Yes, sir. As I said in my evidence, the 168 Case -- in comparison with Ex Parte 166 there were few applications for exceptions to the horizontal increases, and few granted by the Commission.

THE CHAIRMAN: Q. And the applications were made by the shippers?

A. Yes, sir; he is talking here about the shippers protesting.

MR. SMITH: Q. I next refer you, Mr. Jefferson, to Page 48 of the same Judgment, and I will read the passage to which I wish to draw your attention:

> "In a series of authorizations for increases in rates important exceptions have been made from the general increases, either by lesser amounts of authorizations or by imposing maxima in favour of certain of the major agricultural products."

Now, that is the first a statement. It goes on to say:

> "In addition, the railways themselves have seen the need for other adjustments, principally by way of reductions applicable to the important agricultural products."

Now, the point I want to make to you is, are you not putting the cart before the horse when you talk about the system of exceptions being put in by the railways, in view of the passages of the Judgments to which I have referred you? In other words, did not the matter of exceptions to the general horizontal increases start as a result of protests and opposition of shippers which compelled the Interstate Commerce Commission to put in a system of exceptions, and then the railways saw what the attitude of the Interstate Commmerce Commission was, and themselves adopted the system of making application with exceptions; and it was in that connection that there was, as is pointed out, "the need for adjustments"?

A. I wouldn't say so.

Q. In other words you do not agree with what I have read from the passages of the Judgments?

MR. EVANS: He has not said that.

MR. SMITH: If you have any objection, make it directly, and do not interfere with my cross-examination.

THE WITNESS: There is one decision --

MR. SMITH: Mr. Evans, please address your remarks to the Commission and not to me. I don't want any of your observations.

THE WITNESS: There is one decision that you omitted to refer to; that is, Ex Parte 148 decided in 1942 at 248 I.C.C.. Now in that case there were many --

THE CHAIRMAN: Q. What page in the Volume?

A. It runs in many --

MR. SMITH: At 248 of 545..

THE WITNESS: That is where it commences, yes, sir. In that Decision the Commission clearly indicates that the railways themselves suggested many exceptions, and some of the exceptions the railways suggested were approved, others were reduced, or increased. If you read that Decision in Ex Parte 148 you will find what I said.

MR. SMITH: Q. Did you say 248?

A. No, 148 of 545.

Q. In that case there was a general increase of 6 per cent authorized, was there not?

A. I will have to look at my --

(Page 15859 follows)

Q. What is the point you want to make, Mr. Jefferson, in that case?

A. Well, 148 was finally merged into 162.

THE CHAIRMAN: Q. Was finally what?

A. Merged into 162. Now, what that 148 itself was I do not know, but 148 and 162 merged was for 25 per cent increase.

Q. You were referring, then, to Ex Parte 162, were you?

A. Yes, sir.

Q. When was that? Where is it to be found, in what year?

MR SMITH: 162, Mr. Chairman, is in volume 266 I.C.C. 537.

THE CHAIRMAN: What year is it?

MR SMITH: It is the year 1946.

THE CHAIRMAN: Is there some connection between these cases---

MR SMITH: Well, I do not know what Mr. Jefferson is endeavouring to prove. It is certainly nothing that is apposite to my cross-examination, but---

THE CHAIRMAN: He is still answering your question.

MR SMITH: I don't know that he is answering my question, with respect.

THE CHAIRMAN: What is the point?

MR EVANS: I think it is quite unfair of Mr. Smith to make that statement. Mr. Jefferson, when asked whether he was not prepared to change his view, in view of a case that Mr. Smith referred him to, said if Mr. Smith would look at 148 he would find there that the Interstate Commerce Commission had referred to applications by the carriers for exceptions. It is a perfect answer to Mr. Smith.

THE CHAIRMAN: Mr. Jefferson says,though, that in

considering 148 you must have reference to 162.

Q. Isn't that what you say, Mr. Jefferson?

A. Yes, sir.

MR SMITH: Q. Perhaps I could assist you, Mr. Jefferson. Application Ex Parte 148 was made in 1942, was it not?

A. Yes, sir.

Q. Made in 1942?

A. And 162 was made---

Q. And 162 was made in 1946?

A. 1946.

Q. And there were certain increases that were put in effect as a result of the application in 1942 which, owing to the war, were suspended?

A. That is right.

Q. They were suspended; and then eventually in 1946 the two applications came on to be heard together?

A. That is right.

Q. Is that right?

A. That is right; and all I am saying is that in that case the railroads in asking for a horizontal increase in rates, at the same time suggested a number of commodities should be subject to certain maximum increases.

Q. I quite agree.

A. Some of which the Commission granted, others they reduced the maximum, and in other commodities they increased the maximum.

Q. Put it this way: In Ex Parte 148 the increase which was requested was a comparatively small one?

A. In 148 itself, that is right.

Q. And what was done, if I may correct you, was that there was a general increase of 6 per cent put in, and certain commodities took a lower percentage -- grain, live-

stock and certain specified commodities took a percentage increase of 3 per cent?

A. That is in 1942?

Q. That is 1942.

A. Yes, sir.

Q. And line haul rates on coal and coke were increased by specific amounts?

A. That is right; that is in the original decision.

Q. Yes; and there was no increase granted on line haul rates on iron ore?

A. That is right.

Q. Now, that is the original decision?

A. Yes, sir.

Q. That decision was suspended?

A. That is right.

Q. And in 1946 the two applications came on together?

A. Yes, sir.

THE CHAIRMAN: What two applications?

MR SMITH: That is Ex Parte 148 and Ex Parte 162.

THE WITNESS: The proper way to express it, Mr. Chairman, is that the 148 increase of 1942 was suspended in May 1943, then it was reopened, and in 1946 when it was reopened it was decided with an application for greater increase and became Ex Parte 148 and Ex Parte 162.

MR SMITH: Q. Or it was the other way around, I think; they make it 162 and 148, but I think that is the order.

A. Well, they may have put it on the front of the decision.

Q. Now, what do you say as to 148 or 162?

A. What I say is what I said before, that in the reopened 148-162 case the railroads themselves asked for many exceptions, some of which the Commission granted, some they

did not grant, some they reduced, some they increased.

Q. Yes, that is the situation.

THE CHAIRMAN: Q. The exceptions then asked for were exceptions from the horizontal increases?

A. That is right.

Q. Do you tell me that the railways asked for some exceptions to the horizontal increase which were refused?

A. Which were reduced.

Q. But you said some were refused, some were granted, some were reduced?

A. That is right.

Q. Were any refused -- that is, have you any case where the railway asked to make a specific rate instead of a horizontal rate and the Commission refused, compelled them to take a horizontal increase?

A. Well, according to the tabulation which I had made up, in the decision of the Interstate Commerce Commission in Ex Parte 162 there was one instance where a maximum was applied for by the railroads and the I.C.C. did not set a maximum -- one case where it was refused.

Q. They maintained the percentage increase, although the railways wanted a maximum?

A. Well, I gave some evidence on that---

Q. I say the Commission maintained a percentage increase, although the railways wanted a maximum?

A. That is right.

MR SMITH: Q. Could I summarize the decision in that---

THE CHAIRMAN: There must have been some reason for that.

MR SMITH: Q. In 162-148; there were really four classes of exceptions. Now, correct me if I am wrong, Mr. Jefferson. First there were certain specific commodities

which took the general increase, subject to a maximum of cents per hundred pounds -- for example, citrus fruits?

A. Yes.

Q. That is one class. Then the second class was, there were certain specific commodities which took a lower percentage increase than the general increase?

A. Well, what, for instance?

Q. Well, take, for instance, products of agriculture; the general increase was 25 per cent in official territory?

A. That is right.

Q. And between official and other territories it was 22½ per cent, and within and between other territories was 20 per cent?

A. That is right.

Q. Now, the second class to which I refer, which took a lower percentage increase, are products of agriculture, groups 10 to 101, which took an increase of 15 per cent, a lower percentage increase?

A. That is right.

Q. That is right, isn't it? That is the second class?

A. Grain and hay and straw---

Q. Yes, there are a lot -- wheat, corn, a whole long number of groups?

A. Yes.

Q. Then the third category of exception was where certain specific commodities took a lower percentage increase, subject to a maximum of cents per hundred pounds?

A. Now, just a moment. I don't want you to---

Q. I don't want to mislead you.

A. I don't want you to say that all products of agriculture had 15 per cent.

Q. I do not say all products of agriculture.

A. Only certain products.

Q. Certain products of agriculture, yes; I gave you that as an example.

A. Yes, sir; there were other products of agriculture that had a higher percentage increase.

Q. Certain specific commodities took the third class. Have you got as far as I---

A. You are going by these commodity---

Q. I am trying to put the kinds of exceptions in four categories. I gave you two categories, and now here is a third category : A lower percentage increase subject to a maximum of cents per hundred pounds?

A. Well, if you could illustrate it by a commodity---

Q. Well, take iron and steel, take canned goods, take lumber?

A. What index number, do you know?

Q. Well, let me see.

THE CHAIRMAN: When you say lower, do you mean lower than asked for?

MR SMITH: Lower than the general increase. For instance, the general increase in official territory is 25 per cent.

THE CHAIRMAN: What is official territory?

MR SMITH: Official territory includes the eastern territory; I do not know the exact boundary, but it would be bounded by the Mississippi and the Atlantic Coast and by the Ohio River -- a very large and very prosperous part of the United States -- and there the increase was 25 per cent. That was the greatest increase.

THE WITNESS: Now, I would like to get this straight.

MR SMITH: Q. All right, sir.

A. I would like to know what territory you want to discuss.

Q. I am not discussing territories at all; I am just discussing the categories.

MR EVANS: I am wondering whether these cases do not really speak for themselves.

THE CHAIRMAN: Of course they do. I want to find out now, Mr. Smith, what is the point between you and the witness?

MR SMITH: Well, the point between me and the witness is that the case for the C.P.R. which has been presented by this witness is that the exceptions in the United States were originated by the railways for their own purposes and not by the I.C.C. That is my first point.

THE CHAIRMAN: Not by the I.C.C., at the demand of the shipper.

MR SMITH: At the demand of the shipper; that is my point.

THE CHAIRMAN: What do you say, Mr. Smith?

MR SMITH: I say no; I say that it originated through the opposition of shippers to such a method of increasing freight rates, and that the I.C.C. adopted these exceptions as a result of the opposition of the shippers, and then the railways, seeing the attitude the Commission was taking, have fallen in line with the rulings of the Commission, and as a result we have the system built up.

THE CHAIRMAN: Well, Mr. Jefferson refers you back to the year 1942, when he says the railways themselves asked for this.

MR SMITH: Quite; I quite agree with that. He really meant, I think, in 1946 rather than 1942.

THE CHAIRMAN: No; he says certain things were granted in 1942 and then suspended in 1946. The question is,

what did they ask for in 1942?

MR SMITH: In 1942 the increase was comparatively small.

THE CHAIRMAN: What did the railways ask for?

MR SMITH: They asked for a very small increase.

THE WITNESS: Mr. Smith is right.

THE CHAIRMAN: Did they ask for a horizontal increase?

MR SMITH: A horizontal increase with a few exceptions, with a few exceptions.

THE CHAIRMAN: Well, those few exceptions are what Mr. Jefferson has in mind.

MR SMITH: No, I think he has in mind 1946, when they asked for, as he said, 115 instances in 1946.

Q. That is what really you are referring to, is it not, Mr. Jefferson?

A. That is right.

Q. You really meant 1946 rather than 1942?

A. You are right.

THE CHAIRMAN: Well, the question is, who began this?

MR SMITH: Yes, who began it, the egg or the hen?

---(Recess).

MR SMITH: Q. Mr. Jefferson, there is one more case that I want to refer you to, the case known as the 15% Case, 1931; you are familiar with that case, are you not?

THE CHAIRMAN: How is it described?

MR SMITH: The 15% Case, 1931, Ex Parte 103, reported in 178 I.C.C. 539.

THE CHAIRMAN: Did you say the year 1931?

MR SMITH: It is decided in 1931, yes, Mr.Chairman.

Q. Have you that reference, Mr. Jefferson?

A. Yes, sir.

Q. Would you look at page 555, please? I will read a passage at the beginning of the report:

"By an application filed June 17, 1931, carriers by railroad and by water throughout the country, subject to our jurisdiction, asserting that an emergency exists, seek authority to make a general increase of 15 per cent in their all-rail and rail-water interstate and international freight rates and charges."

Now, that was an application for a general increase of 15 per cent made by the applicants; is that not right?

A. Yes, sir.

Q. And if you will look at the appendix at page 587---

THE CHAIRMAN: The appendix to that judgment?

MR SMITH: To that judgment, yes.

Q. You will find that the 15 per cent application was refused, and that there was put in a very extensive system of exceptions by the Commission, including---

THE CHAIRMAN: Exceptions to what? Was there no increase granted at all?

MR SMITH: Well, I will read it:

"PLAN FOR INCREASING FREIGHT RATES

"The plan is that on commodities included under the following numbered descriptions there shall be no increase:"

That was quite a number. Then :

" On commodities included under the following numbered descriptions there may be an increase of $3 per car :"

" On commodities included under the following numbered descriptions there may be an increase of $6 per car :"

" On commodities included under the following numbered descriptions there may be an increase of 1 cent

per 100 pounds:"

"On all other commodities, including all less-than-carload freight, there may be an increase of 2 cents per 100 pounds."

THE CHAIRMAN: Was the railway's application in that case resisted by anybody?

MR SMITH: Oh, yes, it was very strenuously resisted, by many.

COMMISSIONER INNIS: This was in the depression.

MR SMITH: This was in the depression, 1931.

COMMISSIONER ANGUS: Was it significant in that case that an increase in rates was being asked for at a time when a great many prices were declining?

MR SMITH: Well, there was something in that. It was in a time of depression, but the point I wish to make is that here is the first system of exceptions to increases as laid down by the Interstate Commerce Commission, and that, I suggest to you, is the inception of this system of exceptions, in that case.

THE WITNESS: But the reason for the exceptions in that case was because the railways apparently -- I think I am quite correct in saying so -- did not make out a case of necessity for 15 per cent increase, and the Commission considered that on some commodities they should have no increase at all, on other commodities they should have an increase of $3 a car and $6 a car, on other commodities one cent a hundred and two cents a hundred, and in granting such a moderate increase as that, one so small, they could not express it in percentage.

MR SMITH: Q. Now, as a result of the passages which I have read, I suggest to you it was the Interstate Commerce Commission and not the railways which originated the practice of exceptions from horizontal increases?

A. But---

Q. I ask you, can you answer that question?

A. I say yes, but the reason for the exceptions at that time was not because of the horizontal increase. The reason for it was that they did not consider they needed 15 per cent, and therefore they gave them a specific increase on everything, no percentage at all on anything.

Q. I read to you passages from various judgments, in which the I.C.C. have themselves said that they originated the system; do you---

MR EVANS: Where does it say that?

MR SMITH: I have read these passages.

Q. You heard me read the passages?

A. When you speak of all the decisions or the passages from the decisions which you read, I say I do not agree---

Q. The passages which I read to you from these four or five judgments today, I submit, on their true construction, can mean nothing else but that the system was devised by the Interstate Commerce Commission.

Q. Now, do you agree with that or do you not agree?

A. I do not agree.

Q. You do not agree?

A. No, sir.

Q. All right; the passages then speak for themselves.

A. As I said before, if you will compare the applications with the decision you will find that I am correct.

Q. All right.

THE CHAIRMAN: Q. That the paternity belongs to the railways?

A. Yes.

MR SMITH: I don't know whether it is doubtful or not, sir.

(Page 15871 follows)

H MR. SMITH: Now, you said at page 15344 of the evidence given by you on February 15th that in Ex Parte 162:

"---there were 115 instances ---"

115 instances or items where the increases granted were subject to maximum increases?

A. Yes sir.

Q. I assume you meant by that statement that there were 115 items to which the maximum horizontal increase was not applicable?

A. That is right, in the tariff to which I gave reference at the time.

Q. Are you aware that these exceptions were in relation to commodity classes or groups?

A. I indicated there was more than one commodity in an item.

Q. That they referred to commodity classes or groups?

A. That is right.

Q. That is right; and that is shown, I think, by reference to the case.

A. Well, it is shown in the tariff.

Q. Just a moment now. If you look at page 618 of 266 I.C.C.

A. THE CHAIRMAN: We do not appear to have that here.

MR. SMITH: This is the case to which Mr. Jefferson referred, 162 merged with 148.

THE CHAIRMAN: What page do you refer to?

MR. SMITH: Perhaps I should refer him first to Page 618 and the following pages, and it says there:

"That the basic freight rates, whether class or commodity and charges on the commodities

[illegible]

MR. SMITH: [illegible] I [illegible] [illegible] [illegible]

hereinafter specified may be increased in the amount and in the manner set forth as to each commodity class or group."

Is that right?

A. That is right.

Q. You will note that the first exception on page 619 is in relation to various products of agriculture.

A. That is right.

Q. That groups stated contain a large and varied description of commodities?

A. That is right, products of agriculture.

Q. Yes, such as wheat, corn, and oats, and so on, all referred to by a group or class number?

A. In some they showed commodities of agriculture on which the percentage of increase of 15 per cent could apply.

Q. And the other exceptions are similarly grouped according to group or class numbers?

A. Yes sir, but with very much smaller groups.

Q. I put it to you that, instead of 115 exceptions, there are actually, as I calculate it, approximately 138 exceptions specified on pages 619 to 623?

A. 138 instead of 115?

Q. Yes. Did you include in your 115 cases or instances where commodities took a lesser horizontal increase?

A. You mean a lesser?

Q. Lesser horizontal increase than the general increase?

A. No. We did not make the statement from which I read in my evidence. We did not take it from this decision. We took it from the tariff.

Q. I suggest to you that there are actually 138

instances shown on pages 619 to 623, where there were exceptions to the maximum horizontal increase?

A. Are there any commodities on these pages 619 to 623 which are not included in the tariff increases? I do not know.

Q. I suggest to you that a proper comparison as related to the total number of commodities which move in traffic would be of the groups excepted of approximately 130, and that the total number of groups contained in the freight commodity classification for statistics prescribed by the Interstate Commerce Commission. If my question is not clear to you, would you look at Appendix 1 from which I will read:

> "The commodity group or class numbers used in this appendix and throughout the entire report are those specified in the order of Division IV of November 22, 1927, in the matter of freight commodity statistics which was in effect at the date of the submission herein."

I suggest to you that a proper comparison would be of the groups excepted with the total number of groups contained in the freight commodity classification for statistics prescribed by the Interstate Commerce Commission. Is that correct?

A. I would not object to a comparison of that kind if it is properly made.

Q. Do you know how many groups are contained in that classification?

A. Offhand, I do not.

Q. I suggest in the classification affected January 19, 1947, referred to at page 618, there are 970 groups?

A. I daresay that is right. I know it is over 900.

Q. But the one they adopted in this case was the

estimated classification?

A. That is right.

Q. And would the number of groups in that classification correspond with the present classification or be approximately the same in amount?

A. For any given --

Q. Any given specified commodity?

A. That is right.

Q. In other words, I suggest that the true comparison should be between the statistical groupings referred to in the judgment and in the official classification in ratings of commodities?

A. That is, the classification in these commodity statistics?

Q. Yes. It is the commodity statistics which you should take?

A. I can answer you this way: I have no quarrel with the comparison so long as it is like with like.

Q. I suggest that is like with like, Mr. Jefferson; yes, I am asking you therefore: Is it not true that the exceptions in Ex Parte 166, which you have --?

A. 166?

Q. Yes, 166?

A. Oh!

Q. Which was the next judgment?

A. Yes sir.

Q. Which you referred to in your own evidence in your own brief?

A. Yes sir. That is 270 I.C.C.

Q. 270 I.C.C. page 403 and the following pages, and would not be comparable with the several thousand you mentioned at page 19345, but they should be compared in a manner similar to the exceptions under Ex Parte 162; that is to say, 140 for 166 should be compared with

approximately 980, and not with several thousand?

A. I do not know what this page 19345 is that you speak of.

Q. That is your own evidence, I think?

A. No, it is page 15345, I think.

MR. SMITH: Oh, I beg your pardon, that is right, it should be page 15345; and you say now, in Ex Parte 166, which is the 1948 case, there were 140 items again out of several thousand; and I suggest, again, that that is not right.

A. I am speaking of the items in the classification.

Q. But that is not the way that judgment operated, is it?

A. Not with the classification of the railways. It operated with the commodity statistics.

Q. Of the Interstate Commerce Commission?

A. That is right.

Q. So, in other words, it was 115, as you said, out of 980 groups, in the case of Ex Parte 162; and in the case of Ex Parte 166, it was 140 out of a similar number, 980?

A. That is right.

Q. And not out of seven thousand or ten thousand, as you stated in your evidence?

A. By the use of the groups?

Q. They reduced to this amount, is not that true?

A. That is right.

Q. Now, I have here a statement in the 61st annual report of the "Statistics of Railways in the United States for the year ended December 31, 1947"; and I find on page 51 that the total freight revenue of the class 1 railroads in the United States was $7,409,174,576.

I assume you are taking that statement as being

correct. This is the column, Mr. Jefferson.

A. "Freight Revenue from Total Tons Carried". Yes sir.

Mr. EVANS What year was that?

MR. SMITH: 1947.

Q. Now, Mr. Jefferson have you made any calculation, or do you know how much of that total of $7.4 billions would be represented by the exceptions prescribed in Ex Parte 162 and Ex Parte 166, if both judgments were applied to the year 1947?

A. No sir.

Q. You have not made a calculation?

A. No sir.

THE CHAIRMAN: Has anybody else made it?

MR. SMITH: Yes, my lord, that is the point I am coming to.

Q. You realize, I assume, that the exceptions included many important commodities and heavy traffic movements?

A. That is right, in those two decisions; but not so in connection with Ex Parte 123 or Ex Parte 166.

Q. I am only dealing with these two decisions; such important items of agriculture as grain and cotton, citrus fruits, potatoes?

A. Yes sir.

Q. Tomatoes and other vegetables; cattle, sheep, hogs, and poultry; animal and poultry feeds?

A. Yes sir.

Q. Iron ore and other minerals? Do you refer to that?

A. Yes sir.

Q. I gave you some of these commodities, Mr. Jefferson. Will I read them back to you?

A. I understand the commodities that are mentioned

on pages 619 to 623 of 266 I.C.C. 537.

Q. I gave you iron ore and other minerals?

A. Yes.

Q. Logs, pulpwood and lumber, and such miscellaneous commodities as sugar, iron and steel, cement, and food products?

A. Yes, I know them.

Q. Would you be surprised to learn, Mr. Jefferson, that the figure for these excepted commodities would be nearly $5 billion?

A. I have no idea what it would be. It may be so.

Q. Or, in other words, that approximately two-thirds of the total traffic revenue would be represented by the exceptions?

A. That may be, I do not know.

MR. SMITH: I have here, my lord, a telegram from Mr. W.H.S. Stevens of the Interstate Commerce Commission.

THE CHAIRMAN: Is he a member of the Commission?

MR. SMITH: Yes, my lord. His position is that of Director of Statistics of the Commission. The telegram is directed to Mr. Rand H. Matheson and is dated February 17, 1950. It reads as follows:

"EXACT CALCULATION OF 1947 FREIGHT REVENUE FOR COMMODITIES SUBJECT TO CERTAIN EXCEPTION IN EX PARTE 162 AND 166 FINDINGS CANNOT BE MADE YOUR ESTIMATE OF BETWEEN FOUR AND FIVE BILLION DOLLARS WITHIN AREA OF REASONABLENESS OUR ROUGH CALCULATION IS NEARER FIVE BILLION."

THE CHAIRMAN: You have got it on the record.

MR. SMITH: These exceptions in Ex Parte 162 and Ex Parte 166 generally, with few exceptions, covered the same commodities did they not? Have you made an examination?

A. I have not made an examination, but I would think

they would, pretty much.

Q. With very few exceptions?

A. Pretty much the same.

Q. Pretty much the same and covers the same line?

A. Yes,sir.

COMMISSIONER ANGUS: Could the Interstate Commerce Commission act, of its own motion, in making these exceptions, or was each case argued before it?

MR. SMITH: In the case of Ex Parte 162 and Ex Parte 166, the carriers themselves in their application asked for a large number of exceptions.

COMMISSIONER ANGUS: And the others?

MR. SMITH: In both cases, Dr. Angus.

COMMISSIONER ANGUS: And these were added in argument by the interested parties?

MR. SMITH: Yes, and still the shippers were not satisfied. That is the point I wish to make next.

Q. Now, I suppose you would accept that rough calculation made by the Interstate Commerce Commission as an indication of the magnitude of the exceptions?

A. Of dollar revenue?

Q. Yes, of dollar revenue.

A. Yes sir. I mean, I would accept Mr. Stevens' statement.

Q. You know Mr. Stevens, I suppose?

A. Yes sir.

Q. Do you not agree that if two-thirds of the revenue for 1947 is represented by these exceptions in Ex Parte 162 and Ex Parte 166, the question of relief from impact of horizontal increases is not regarded, at least by the Interstate Commerce Commission,as a mythical one?

A. No. But there is one thing I would like to ask: How much of that revenue in 1947 was coal and coke?

THE CHAIRMAN: How much what?

A. How much of that revenue in 1947 was coal and coke traffic?

MR. SMITH: We can answer that question for you, I think. According to our calculation, coal and coke represents $1,288,291,238.

A. On which traffic we had exceptions.

Q. On which traffic we had exceptions?

A. In Canada?

Q. That is right.

A. Yes sir.

Q. Now, I ask you this question: Does not this indicate that there has been a very successful effort made in the United States to mitigate against the impact of horizontal increases?

A. A very successful what?

Q. A very successful effort?

A. I will say there have been a number of exceptions made in two of the four decisions that we have discussed here.

Q. Well, these two increases are cumulative increases, are they not?

A. Yes sir.

Q. And large general increases?

A. Yes.

Q. The two largest increases which have been made in many years?

A. That is right.

Q. Now, I also put it to you, sir, that the decisions of the Interstate Commerce Commission to which I have referred, notably the last decision, clearly show that further efforts have been made to extend the exceptions, and that the Interstate Commerce Commission has directed the railways to co-operate towards that end.

A. I do not know that; but the last decision, in Ex Parte 168, there were very few exceptions.

Q. Well, let us look at this thing again.

I will refer you to the last decision, Ex Parte 168, at pages111 and 112: I shall begin to read in the second paragraph of page 111:

"We are mindful of the showing made by protestants as to various rate adjustments, as adverted to in this report, and it is to be understood that our conclusion and the findings which follow will be without prejudice to subsequent examination of the reasonableness and lawfulness of any particular rate or rate structure increased as herein authorized. Further, with respect to this phase of the proceeding, what we said in Increased Freight Rates, 1947, 270 I.C.C. 403, 454-5 is particularly apposite here.

'There are many commercial relations which the adjustments already allowed by us or proposed by the carriers would necessarily disturb temporarily, but which would be capable of correction within a reasonable time. There are also other situations where the allowance of any increases of substantial size must disturb pre-existing relations beyond the possibility of remedial correction so as to maintain the former competitive status. We have the assurance of the petitioners of their intention to proceed by voluntary discussion and co-operation with the shippers and representatives of markets, to devise and endeavour to put into effect such measures

as will restore former competitive relations as completely as possible. We expect full and prompt compliance with these representations in the spirit of the proceedings."

Then I go on at the top of page 112.

THE WITNESS: There is no difference.

Q. "We may add that, as the petitioning carriers have the burden of initiating and maintaining rates that comply with the act, the burden is on them in good faith and with all possible promptness and in a spirit of co-operation to devise and suggest for the consideration of the shipping public the rates which in their judgment will correct maladjustments."

I suggest to you that notwithstanding all that has been done in the way of providing exceptions in the United States to horizontal increases, the situation is still open, and the Interstate Commerce Commission is directing the railways to look into the question of devising other exceptions, and of co-operating with the shippers towards that end?

A. It is no different from the situation existing in this country, where everybody, every shipper has the right to appeal to the Board of Transport Commissioners.

Q. That is not --

A. Or the right of discussing it with the railways and which the railways have never refused.

Q. That is not the position which the railways in Canada are taking, as is shown, I suggest, by the position taken in your Submission.

You yourself have said that there is nothing inherently wrong in horizontal increases, and that it has authorized the method of increasing rates?

A. I agree with that.

Q. That is the position you have taken?

A. Yes; and I also say that we never refused to any shipper the right of discussing the matter with us, if he can show that he is hurt.

Q. I suggest to you that the position which your railroad has taken both in the 21% case and before this Commission is one of unalterable opposition to any exception to horizontal increases.

A. Not unalterable, if the shipper can show us afterwards that he is really hurt.

MR. SMITH: That is all. Thank you, Mr. Jefferson.

MR. EVANS: My lord, while we are on this subject, there are two paragraphs I would like to put on the record, at this time, so that they will be in their proper place.

THE CHAIRMAN: Go on, Mr. Evans.

MR. EVANS: The first one I have noted is in the 1947 case, Ex Parte 166, I think it is, and it is reported in 270 I.C.C. page 453. This was part of a paragraph to which Mr. Smith was addressing his attention, and I would like to draw the attention of the Commission to this statement which appears about the middle of the page and which reads, after stating the position of the long haul shipper. I read:

> "Contrariwise, shippers located so that their traffic moves shorter distances, pay or absorb a lower basic rate, and are subjected to a lesser amount of increase if the same percentage is applied to their rates as to the rates charged the competing long-haul shippers. This advantage they consider as justly due to their geographical situation and as properly to be

[illegible] with that.

[illegible]

[illegible]

[illegible] with us, [illegible]

[illegible]

4. I suppose [illegible] settled [illegible] in the 215 [illegible] th- [illegible] in any ex- [illegible]

5. [illegible] ultimately, [illegible] show us [illegible] words [illegible] hurt.

MR. [illegible]: That [illegible]. Thank [illegible].

[illegible]

[illegible] would like [illegible] in the [illegible]

[illegible]

MR. EVANS: The first one I have [illegible] in the 1947 case, Ex[illegible] 106, I think it is, and it [illegible] reported in [illegible]

[illegible] which we [illegible] this [illegible], and I [illegible]

[illegible] the attention [illegible] the [illegible] in [illegible]

[illegible]

which [illegible], [illegible]

[illegible]

"[illegible]wise, [illegible] that their [illegible]

[illegible] lower basic rate, and are subject [illegible]

lesser amount of increase in the [illegible]

have to be applied to their rates [illegible]

[illegible]

[illegible] justify [illegible]

[illegible]

insisted upon by them."

The other paragraph is at page 572.

THE CHAIRMAN: Of the same case?

MR. EVANS: No. I think it is from Ex Parte 148; this is from Vol. 248 I.C.C. reports page 572 and I shall read from about the middle of the page, as follows:

"As may be gathered from our past reports where we considered similar contentions, the controversy is really between the shippers who are located at considerable distances from their markets and those who have markets relatively close. Distance alone generally imposes a handicap on the long-haul shipper, since the rate he pays exceeds that paid by his short-haul competitor. The long-haul shipper looks at the difference in the two rates, and sees in a prospective increase of each rate by means of a uniform percentage a widening of this rate difference in cents per unit of transportation. This he regards as an important factor in his competition with his short-haul producer, and he naturally opposes the use of the uniform percentage method of increasing rates, or seeks a maximum limit upon the amount of the increase. The short-haul shipper, on his part, regards his shorter distance as an advantage to which he is entitled, and urges with force the principle that the adjustment of rates with reference to cost of service requires increased expenditures, such as those which form the basis for this case, to be distributed ratably among the rates so as to represent contribution for services performed.

In preceding general rate increases, and that made by the Director General of Railroads, some-

times one method and sometimes the other, or a combination of both, has been used. We have never attempted to lay down a rule applicable at all times and upon all commodities, but our decisions have been adjusted to meet the needs of commerce and industry and to preserve the rights of the parties as we saw them in particular proceedings."

THE CHAIRMAN: We shall adjourn now until tomorrow morning.

(--At 4.45 p.m. the Commission adjourned, to meet Tuesday, February 21, 1950 at 10.30 o'clock a.m.)

A.R.

Canada

ROYAL COMMISSION
ON
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ROYAL COMMISSION ON TRANSPORTATION

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO
TUESDAY
FEBRUARY 21, 1950.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN

HAROLD ADAMS INNIS - COMMISSIONER

HENRY FORBES ANGUS - COMMISSIONER

G.R. Hunter
Secretary

P. L. Belcourt
Asst. Secretary

COUNSEL APPEARING:-

F.M. Covert, K.C. G.C. Desmarais, K.C.	Royal Commission on Transportation
A.H. Hart	Canadian National Railways
C.F.H. Carson, K.C. F.C.S. Evans, K.C. I.D. Sinclair	Canadian Pacific Railway
C.D. Shepard	Province of Manitoba
M.A. MacPherson, K.C.	Province of Saskatchewan
J.J. Frawley, K.C.	Province of Alberta
F.D. Smith, K.C.	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade.
J. Paul Barry	Province of New Brunswick
C.W. Brazier	Province of British Columbia
F.R. Hume M.L. Rapoport	Canadian Automotive Transportation Association

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Ottawa, Ontario,
Tuesday, February 21, 1950

MORNING SESSION

---The Commission resumed at 10.30 a.m.

MR. EVANS: I have two short matters I should like to speak to at the opening, if I may, Mr. Chairman. The other day Mr. MacPherson presented a statement which he entitled Consolidated Mining and Smelting Company of Canada Limited, and gave some figures of investment and value of the stock held by the Canadian Pacific, and also some information about dividends. At that time I undertook to check his statement. I have now done so, and I have two observations to make about it. They are quite minor, and I make them for the sake of accuracy. We find that the top price for the Smelter stock on the date given in the exhibit is a little less than that shown. Instead of $99.50 it is $99.25, and that would affect the total extended in the next column. On the second page, and I do not think anything special turns on this, and it is only in order to have it accurate, the return per share by way of dividend does not on this basis distinguish between the old shares and the new shares. There was a division of the stock in 1936, and I am told that the first two figures of dividends per share are on the new basis of stock although in those particular years the stock was on the old basis, and that the dividends in 1934 were $3 a share on the old basis and $6.50 per share on the old basis in 1935. I do not know that anything really turns on it.

The second thing is that during the afternoon yesterday Mr. Smith put into the record a telegram from W. H. S. Stevens of the Interstate Commerce Commission.

[illegible], February 1, [illegible]

---The Commission resumed at 10.30 a.m.

MR. [illegible]: [illegible] two [illegible] I [illegible] like to [illegible] the [illegible], [illegible], Mr. [illegible]. [illegible] the other day Mr. [illegible] [illegible] the Consolidated Mining and Smelting Company of Canada Limited, and gave some figures of investment and values of the stock held [illegible] and [illegible] the present [illegible] about [illegible]. At that time I [illegible] to check his statement. I have now done so, and I have two observations to make about it. They are quite minor, and I make them for the sake of accuracy. I find that the [illegible] value for the [illegible] stock on the date given in the exhibit is a little less than that shown. Instead of $90.50 it is $89.25, and that would affect the total extended in the next column. On the second one, and I do not think anything special turns on this, but it is only in order to keep the record [illegible], the return shown by way of dividend does not on this basis distinguish between the old shares and the new shares. There was a division of the stock in 1936, and I am told that the first two figures of dividend per share are on the basis of stock [illegible] [illegible] the stock was on the old basis, and that the dividends in 1936 were $3 a share on the old basis and $6.[illegible] per share on the old basis in 1937. I do not know that anything really turns on it.

The second thing is that during the [illegible] [illegible] Mr. Smith put into the record a [illegible] from [illegible] [illegible] [illegible] [illegible].

Apparently that telegram refers to some communication from Mr. Matheson to him, and to an estimate made by Mr. Matheson of between four and five billion dollars affected by the exceptions. I would ask my friend Mr. Smith if he will file first of all the communication to Mr. Stevens by Mr. Matheson, and also the details of Mr. Matheson's estimate.

The importance of that is this, that the point being made by Mr. Smith was that some exceptions were made to horizontal percentage increases, and my information is that a very large part of the four or five billion dollars is made up of traffic which received a flat horizontal increase of a lesser percentage than some others, but that there were no maxima or any flat cents per hundred pounds involved in that traffic. In order that the full effect of this communication from Mr.Stevens may be appreciated by the Commission I think this information should be before the Commission.

THE CHAIRMAN: Mr. Smith, what about that?

MR. SMITH: If your lordship pleases --

THE CHAIRMAN: Have you any objection to giving us the whole story?

MR. SMITH: May I make an explanation first, Mr. Chairman? The exceptions to the maximum horizontal increases in these two cases were, as I mentioned yesterday in my cross-examination of Mr. Jefferson, in four categories. I mentioned what those increases were in my cross-examination. First there was the case where certain specific commodities took a general increase subject to a maximum of cents per hundred pounds. The second exception is where certain specific mileage took a lower percentage increase --

THE CHAIRMAN: Lower --

MR. SMITH: Lower percentage increases.

THE CHAIRMAN: Than others?

MR. SMITH: Than the others -- than the maximum. The third case is where certain specific commodities took a lower percentage increase subject to a maximum of cents per hundred pounds, and the fourth category is where certain specific commodities were increased by so many cents per hundred pounds.

Upon examining these exceptions my advisers made a rough calculation of how much of the $7.4 billion total revenue for the year 1947 of class 1 railroads in the United States would be represented by all these exceptions. The calculation was not completed, is not in detail, and was proceeded with to a point where we were satisfied that a very substantial amount of revenue was represented by the exceptions.

Mr. Matheson then telephoned the Interstate Commerce Commission bureau of statistics for the purpose of ascertaining the amount of such revenue represented by the exceptions. As a result of that conversation he received a telegram from Mr. Stevens. I was interested only in ascertaining the approximate amount represented by the exceptions, and I rely not upon our rough calculation but upon the information received from the Interstate Commerce Commission in the form of a telegram.

THE CHAIRMAN: Then this telegram was in answer to a telephone conversation?

MR. SMITH: As the result of a telephone conversation.

THE CHAIRMAN: No letter was written by Mr. Matheson?

[illegible]

[illegible]

[illegible]

MR. [illegible]: After the [illegible] -- [illegible]

[illegible]

[illegible] increase [illegible] of [illegible]

[illegible]

[illegible] increased by [illegible]

[illegible]

[illegible]

[illegible] or now much of the [illegible] billion

total revenue for the year 1947 [illegible] in

the [illegible] reserve [illegible] represents [illegible]

expenditures. The [illegible] situation was not [illegible]. In not

[illegible], [illegible] [illegible]

[illegible] that [illegible] any subsidy [illegible] amount of revenue

[illegible]

[illegible]

[illegible] guarantee bonus of stabilization for the purpose

[illegible] the amount of such revenue represents

[illegible] expenditures. [illegible] result of that [illegible]

[illegible] 25 years. [illegible]

[illegible] many [illegible] revenue [illegible]

[illegible] expenditures [illegible] not upon our [illegible]

[illegible] but upon the income [illegible] received from the [illegible]

[illegible]

THE CHAIRMAN: Then this telegram was in reply

[illegible]

MR. [illegible]: In the [illegible] of a telephone [illegible]

[illegible]

THE CHAIRMAN: No letter was written by Mr.

[illegible]

MR. SMITH: There was no letter written by Mr. Matheson.

THE CHAIRMAN: And no telegram sent?

MR. SMITH: No telegram sent by Mr. Matheson. If my friend wants a breakdown of the exceptions I suggest the place to get that is the Interstate Commerce Commission, and if he wants the information we will get it for him.

MR. EVANS: I do not want to be troublesome about this, but I should like to point this up a little more clearly. On page 15878 Mr. Smith asked Mr. Jefferson this question, after he had put this telegram in:

> "Q. Do you not agree that if two-thirds of the revenue for 1947 is represented by these exceptions in Ex Parte 162 and Ex Parte 166, the question of relief from impact of horizontal increases is not regarded, at least by the Interstate Commerce Commission, as a mythical one?"

THE CHAIRMAN: Is not regarded as what?

MR. EVANS: "As a mythical one."

MR. SMITH: As a matter of fact, the word I used was "magical."

MR. EVANS: I accept my friend's correction of that word. My point is if we are talking about relief from horizontal percentage increases, that is the long haul against the short haul, we are not talking about the same thing as is contained in this estimate, because there are large quantities of traffic that received a horizontal percentage increase but a different horizontal percentage increase than was applied to some other traffic. That is the first point. The second point is -- and I do not know how far this may prove to be important; I

am just as much in the dark as I can be. If you look again at that question and at the telegram you will see that the exceptions in both Ex Parte 162 and Ex Parte 166 are reflected in the estimate.

THE CHAIRMAN: In what?

MR. EVANS: In the estimate. The 1947 revenue did not actually reflect these exceptions because Ex Parte 166 was not finally effective until 1948, so that it may be that there is a sort of doubling up of exceptions there. In other words, you could have looked at the 1947 revenue and taken all the exceptions that had ever been made in any of the cases and pyramided those exceptions in a way that would, I submit, not give a fair picture. I am not charging my friend Mr. Smith with acting in any invidious way, with not making a disclosure, but I think it is important that we see how this would be made up so that we can decide how accurate the figure is.

THE CHAIRMAN: How do you propose one should proceed to find out what you say ought to be found out? The only place to find it out I suppose is from the Commission itself?

MR. EVANS: I put it this way --

THE CHAIRMAN: As I understand what Mr. Smith is proving by this telegram, in a certain year -- was it 1947?

MR. EVANS: Yes, sir.

THE CHAIRMAN: A certain percentage of all revenue was derived from rates that were not straight horizontal rates.

MR. SMITH: That is not quite the question -- not maximum horizontal rates.

THE CHAIRMAN: I mean maximum.

MR. EVANS: If the maximum horizontal increase was

[illegible]

[illegible]

[illegible]

25 per cent and groups of commodities got 20 per cent and 15 per cent, then all these exceptions, although they were percentage increases, are included in that estimate. I think we should see that. In answer to your question my point is that he who alleges should prove. I am not quarrelling with the validity of the point if he can prove it, but I do think some obligation rests on Mr. Smith in view of my suggestions to do more than to file a telegram the basis of which is not clear. That is my point.

THE CHAIRMAN: Yes, I remember the telegram. Perhaps we had better have it read again.

MR. EVANS: "Exact calculation of 1947 freight revenue for commodities subject to certain exception in Ex Parte 162 and 166 findings cannot be made your estimate of between four and five billion dollars within area of reasonableness our rough calculation is nearer five billion."

My submission is that --

THE CHAIRMAN: That refers to the one year and to all the exceptions?

MR. EVANS: To all exceptions including the lower horizontal percentage increases, and I think it is important, in order to establish the validity of this, to determine how much of this estimate of $5 billion is attributable to these other increases.

THE CHAIRMAN: Perhaps if Mr. Smith were to write to Mr. Stevens in respect of his telegram and ask him if he would care to expand on it in a letter --

MR. SMITH: I think probably we could expand on it and ask Mr. Stevens to relate it to the 1948 or 1949 figures too.

THE CHAIRMAN: Just do as you like about that.

MR. SMITH: Because the 1947 figures were the only figures we were able to check here; that is why we took them, but we can take 1948 and 1949 and show the cumulative effect of the two rate cases.

THE CHAIRMAN: You can go as far as you like in it. This may be an opportunity for you to do something.

MR. SMITH: We will obtain the information.

THE CHAIRMAN: The whole thing is you are anxious to show that a very substantial part of the revenues which these first class railways derive in the United States are made out of rates which are less than the maximum horizontal increases.

MR. SMITH: That is right.

THE CHAIRMAN: In one way or another.

MR. SMITH: In the four ways which I have mentioned.

THE CHAIRMAN: You can pursue it further.

MR. SMITH: I might point out that Ex Parte 162 applied to the whole year 1947, and that was taken into consideration in the actual revenue. Ex Parte 166 --

THE CHAIRMAN: You are referring to these cases?

MR. SMITH: Yes.

THE CHAIRMAN: Of course we have not had time to read them yet. I think it is worth while probing this thing further instead of leaving it that way with a telephone message which, of course, there is no trace of, and a telegram in reply to it.

MR. MacPHERSON: My learned friend Mr. Evans also referred to the information furnished by me relative to Consolidated Mining and Smelting Company. I was happy to see that on checking, any discrepancies were minor. However, what was done in connection with that information

[illegible]

was that it was read into the record. I discussed the matter with him this morning, and probably it would be better if we now file an exhibit which would be agreed upon between the two of us in the light of what he has said this morning. I will do that. I will file an exhibit giving the same information and checking it with Mr. Evans to see that there is no information that is wrong. We took the figure as to the value of the stock from the Montreal Gazette, and we could not imagine that the Montreal Gazette would be wrong in any particular.

MR. EVANS: I was not making any issue about it except I do want this clearly established on the record, that I reserve my rights to say that this exhibit and the information contained in it is irrelevant to the inquiry.

THE CHAIRMAN: Anything that you two gentlemen will agree upon will be received here with great comfort, subject to any exceptions you wish to make.

MR. FRAWLEY: Before proceeding with the cross-examination of Mr. Jefferson I want to put into the record some information that we have obtained in answer to a question by Commissioner Innis. This was during the examination in chief of Mr. Jefferson, and at page 15196 Dr. Innis asked:

> "Do you know what the price of wheat was at that date at Duluth and at Fort William -- October 1, 1949, that is the date of your map?"

At page 15200 I said that we would try to get that information and we now have this information. It is from the Searle Grain Letter of the 12th of October, 1949, and these are the prices for the 11th of October, 1949, expressed in Canadian dollars and for No. 1 Northern wheat. At Portal, North Dakota, $2.02; at North Portal, Saskatchewan, $1.58½. In that instance, of course, there

is a possibility of something further because of the participation certificates. At Minneapolis on the same day the price was $2.40. I might say here we have not been able to get the Duluth price which Dr. Innis asked for. We have not been able to get that differential between Duluth and Minneapolis. We may be able to get it, and if we can we will put it into the record.

(Page 15895 follows)

At Fort William these are the three prices - to Great Britain $2.00, Class 2 wheat, that is wheat to countries other than Great Britain $2.40, and to wheat-agreement countries $1.98.

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MR. C. E. JEFFERSON - Recalled

CROSS EXAMINATION BY MR. FRAWLEY:-

Q. Now, Mr. Jefferson, I want to begin by asking you some rather general questions in connection with your evidence in Volume 67, given last December.

On page 13916, Mr. Jefferson, you listed there and on the pages just before that, seven tests that you say you apply to determine whether revenues on particular rates would be satisfactory, and I only wanted to direct your attention to the last two.

Now, the second last one was the flow of traffic. You said, "Sixthly, the direction of the flow of traffic". Now, can you tell me how the direction of the flow of traffic is used, Mr. Jefferson?

A. How is it used?

Q. Used as one of your tests?

A. Well, in using the flow of traffic as one measure, you first must know what commodity and what movement is in your mind, that is, on what commodity you are making a rate, and where the movement will be from and to, and when you consider flow of traffic, you consider both the flow of the volume of loaded cars and also the return empty movement of cars.

Q. Well now, having mentioned what you have

in mind, that is, the specific commodity, can you give me any example of specific commodity rates in effect which reflect these factors?

A. I can't off hand, but if you will give me an illustration of a movement you have in mind - -

Q. No, I did not have any in mind. I just wanted to know and to test the importance of this "Sixthly, the direction of the flow of traffic" as one of the tests, and I just wondered if you could give me any examples of specific commodity rates now in effect which do now presently reflect that factor in which you bave brought to bear this particular test, applied this particular test?

A. I cannot off hand, but I can illustrate it by a possible movement, if you like. If you are making a rate, we will say, on some commodity from Calgary to Regina, and it needs a low rate to move it - -

Q. What would be an example?

A. That would be an example, yes.

Q. What would be an example of a commodity?

A. I don't care what commodity it is - commodity X moving from Calgary to Regina, the volume it would move and then when you have - well, I will give you an example from Calgary to Regina. I can take crude oil, if you like. Now, you have got a heavy movement of eastbound loaded traffic and you have a movement of empty cars west, and, furthermore, in connection with a case like crude oil, you always move, or invariably move, the tank cars back empty. Well, that is an instance of what

is meant by the flow of traffic.

Q. And in that instance then, you did apply the test of the direction of the flow of traffic to loaded crude cars to Regina and the empty cars back?

A. When you are figuring your gross return revenue per carmile on petroleum products or any product moving in a tank car, you must take into consideration whether a car moves back empty. Then, you must consider what you pay out per mile for the use of the tank car not only in the loaded direction, but in the empty direction, and your net gross carmiles is your return from, in the instance we are talking about, Calgary to Regina and return.

Q. Would you make a lower rate or a higher rate whether it moved against the flow of traffic or with the flow of traffic?

A. I would not say whether we would make a lower rate or a higher rate. It depends on the conditions existing, the rate on the commodity that the rate was being made on, but you would weigh the return on the traffic volume in that territory.

Q. Well, you say that you apply these tests to determine whether revenues on particular rates will be satisfactory?

A. Yes, sir.

Q. Now, you had to determine whether the rate on the crude oil from Calgary to Regina was satisfactory because there are empties going back?

A. Well, as I told you in my direct evidence, we test it with the average revenue per carmile for a reasonable comparative haul.

Q. The ordinary flow of traffic, of course, of crude oil is from Calgary to Regina?

A. It was; it is not today.

Q. Well, when it was, and somebody wanted to move a car of crude oil from Regina back to Calgary for some purpose, that would be a different rate, would it?

A. No, we would probably make the same rate if the same commercial conditions existed.

Q. But you would have empties going back?

A. That would not make any difference.

Q. Now then, you have another test, the density of traffic over the line?

COMMISSIONER INNIS: Isn't that a very highly specialized case? It is not like an ordinary boxcar where you might have other considerations. This is something in which you cannot include any other commodities?

A. Quite right. You might have a movement of some commodities in boxcars where you might get a return loading of some other commodities in the car.

Q. Well, this would be an extreme case?

A. That is right.

MR. FRAWLEY: Take coal. You move a lot of coal from Drumheller to Saskatoon and in boxcars?

A. Yes, sir.

Q. Now, just thinking of the question that Dr. Innis raised, would that be a different situation

than the crude oil from Calgary to Regina?

A. No, I would say that a large percentage of cars in which coal is loaded from Alberta to Saskatchewan or Manitoba are returned empty.

Q. But the fact is, that they have not all got to be returned empty. I would think the crude oil cars would go back 100% empty?

A. Quite right, but your coal cars, if they were open coal cars, would all go back empty. If coal was loaded in boxcars, then they could only be used in return movement for very rough freight. You could not put flour in them or sugar, or commodities of that kind.

Q. Well, I can appreciate that this depends on a variety of circumstances, and so long as there is some traffic to put in the empty cars, then the importance of this particular factor would vary?

A. It would vary, yes, sir.

Q. Then your seventh test, is density of traffic over the lines. How would that be applied?

A. Well, the density of the traffic would be applied by the density of the movement itself or the density of movement on that particular section of the line.

Q. I just want to know how you reflect it. Would the rate be higher or lower because of a low density on some particular line?

A. Well, if it was light density and it created more traffic for the line without additional trains, that would be one consideration, but if it was a heavy density line and the increased traffic meant more

trains that would be another consideration.

Q. Now, Mr. Jefferson, can you give me an example, because, frankly, I think that these things are more easily understood with examples? Can you give me an example of a specific rate now in effect which reflects this factor of density?

A. I do not have any in mind at the moment, no, sir.

Q. Now, in the same Volume, Mr. Jefferson, on page 13912, you say, in criticizing the cost of service principle, you say at the bottom of that page:-

> "Were lower value commodities charged their full share of the over-all cost of transportation, the rates on these commodities would not be radically different from the rates on higher value commodities".

Now, Mr. Jefferson, what I want to ask you is - do you see that there?

A. Oh, yes - "Were lower value commodities charged their full share of the over-all cost of transportation, the rates on these commodities would not be radically different from the rates on higher value commodities" - yes, sir.

Q. Now, what I want to ask you is, did you mean to imply there, that low value traffic merely because its rates were low compared to, say, first class rates, that that is prima facie evidence that the low rate traffic is not paying its full share of the over-all cost?

A. I would not say it is not paying its full

share; it is not paying as large a share.

Q. What would you say as to whether it is or is not paying its full share compared to the first class rates?

A. In a broad sense, it is paying over and above out-of-pocket costs, if that is what you want to know, but it is not paying as much - the commodity of low value is not contributing as much over and above out-of-pocket costs as high valued commodities.

Q. Not contributing so many dollars, but my question was whether or not you would say that the mere fact that these rates were low compared to the rates on the higher valued traffic, that that mere fact was any evidence that it was not paying its full share of the overall costs?

A. What do you mean by "full share"?

Q. Well, its proper share.

A. I would say it was paying a fair share.

Q. I am really using your expression when you say "were lower value commodities charged their full share of the overall cost of transportation - "

what I mean is, I gave you the words back; they are really your words?

A. We are saying in that sentence that if the lower value commodities charged their full share of the overall cost, the rates on these commodities would not be radically different than the rates on higher value commodities.

Q. That is what you had said, yes. Now, I want to ask you some questions about that. Now, you

are not saying that the actual level of any particular rate, the actual rate, is any guide as to its remunerative character?

A. As to its remunerative character?

Q. Yes, the mere fact that it is more in dollars is not any very helpful guide in finding out the answer to this question that you have raised?

MR. EVANS: The question he has raised, Mr. Frawley, has nothing to do with the remunerative character of rates at all; it is the cost of service he is talking about.

MR. FRAWLEY: Now, Mr. Chairman, this is Mr. Evans' first interruption, and my friend is now warning me that it won't be the last.

THE CHAIRMAN: As far as I can follow Mr. Frawley was bringing to Mr. Jefferson things that Mr. Jefferson has said, and was asking him to explain and dilate upon them.

MR. FRAWLEY: Word for word. I am now addressing myself, Mr. Chairman, to, I suppose, without any question of doubt, the most experienced traffic man in Canada - -

THE CHAIRMAN: Are you asking for the protection of the Court?

MR. FRAWLEY: I almost am, and I am doing it in advance. I am making an application to need a nunc pro tunc as my friend Mr. Jefferson is very full of this subject, but I simply cannot conduct this kind of cross examination, which I do not have to say to you as it is apparent, if I am going to be constantly harassed (I suppose the word is and it has been used before) by Mr. Evans.

I am addressing myself to you, because it is not proper for me to address myself to Mr. Evans. I am not asking for any favours, but I am asking for consideration from Mr. Evans, and support from the Commission that I should be allowed to conduct this cross examination unless I am mistating something, and then I must be immediately interrupted.

MR. EVANS: That is all I interrupted for, because Mr. Frawley suggested to the witness that he used this test as to whether rates were remunerative or not. He was not dealing with that subject at all. He was dealing with the cost of service principle, and it had nothing to do with whether particular rates were remunerative. Now, it seems to me that if my friend Mr. Frawley sticks to the point, I will have no necessity for interruption. He did not put the question fairly to Mr. Jefferson in the context in which that statement was made.

MR. FRAWLEY: Now, Mr. Jefferson, you have looked at these last four lines on page 13912 several times. Now, having looked at them again, I simply put it to you, would you not agree that the actual level of any particular rate, the actual dollars charged, is no guide to the remunerative nature of the rate?

A. I do not know that I understand your question.

Q. Well, there must be, as you say yourself - "Were lower value commodities charged their full share of the overall cost of transportation, the rates on these commodities would not be radically different

from the rates on higher value commodities". Now, I am trying to see the application of that?

A. Well, I suppose anyone would say that were a lower value commodity to pay its full share of the overall cost of transportation, it should pay the same share as a higher value commodity.

Q. You are now saying that, are you, in substitution for this?

A. No, that is what that says.

Q. Now then, Mr. Jefferson, I want to take you to the Appendix on page 56. Would you read me back, please, the very last answer?

THE REPORTER: "Well, I suppose anyone would say that were a lower value commodity to pay its full share of the overall cost of transportation, it should pay the same share as a higher value commodity".

MR. FRAWLEY: The "same rate" you mean instead of "share"?

A. I said "the same share".

Q. You mean the same share? How would you estimate the same share? How could you do that?

A. I don't know how you would do it.

Q. Now, will you look at page 56 of your Appendix? Now, you see there that automobiles from Windsor to Montreal, 567 Miles are charged $1.18 per hundred weight - right?

A. Yes, sir.

Q. And pig iron on the same page, Sault Ste Marie, to Montreal, 622 miles, is charged $5.91 a gross ton, and that has been calculated for me

at 27¢ a hundred weight. That is roughly right, I take it, is it?

A. Well, I am not going to take the time to check it.

Q. You will accept it from me?

A. Yes, sir.

Q. Now, the pig iron rate is less than a quarter of the automobile rate, isn't it?

A. Yes, sir.

Q. But the carmile earnings are over twice as much, the carmile earnings being 22.2¢ on the automobiles and 48.8¢ on the pig iron?

A. That is right.

Q. The rate for which you get 27¢ a hundred weight pays you out 48.8¢ a carmile and the $1.18 rate on the automobiles pays you out at 22.2¢ per carmile. Now, in this case would you say that the pig iron was contributing less than its share as compared with automobiles?

A. I am not saying that, no, but when you compare the movement of pig iron and automobiles, you must give some weight to the difference in the average loading per car and also, the ton mile earnings as well as the carmile earnings.

(Page 15908 follows)

Q. Well, now, we will talk about the car-mile earnings in a moment, Mr. Jefferson; but, looking at the car-mile earnings of those two commodities, you are not going to say that the pig iron is contributing less than its share when you compare it with the automobiles?

A. No, I am not going to say, because I do not know what each movement is paying.

Q. You do not know what?

A. What each movement is paying.

THE CHAIRMAN: Q. You do not know what, Mr. Jefferson?

A. I do not know what each movement is paying, if we are discussing a cost of service principle.

MR FRAWLEY: Q. All I know is that I was analyzing the statement at the bottom of page 13912, in the light of what these two commodities do in terms of car-mile earnings, that is all.

A. Well, what are we discussing?

Q. We are discussing the statement at the bottom of page 13912, where you suggest that the over-all cost of transportation must be shared between the lower value commodities and the higher value commodities, I imagine.

MR EVANS: That exactly points up the objection I made before, because Mr. Frawley is taking a statement of the witness criticizing the cost of service principle, which is not applied in ratemaking in Canada today, and he is trying to tie him up to rates that are made on the value of service principle, and there is exactly where the confusion comes, and I saw that coming when I first made my objection.

THE CHAIRMAN: When Mr. Frawley reads to Mr. Jefferson something that Mr. Jefferson said, Mr. Jefferson himself can explain what his meaning was and what he related his statement to. Read that again, Mr. Frawley.

MR FRAWLEY: The quotation is:

" Were lower value commodities charged their full share of the over-all cost of transportation, the rates on these commodities would not be radically different from the rates on higher value commodities."

Now, that was the text we had in front of us.

Q. My question, Mr. Jefferson, was, when you compare--

THE CHAIRMAN: Just a minute. Perhaps, then, we had better ask Mr. Jefferson now what subject he was dealing with when he made that statement.

Q. What had you in mind? What were you covering?

A. That is what I was asking Mr. Frawley, because I do not think---

Q. But you yourself -- don't you remember?

A. No, but my point is this, sir, that I do not think you could compare a discussion on cost of service with a discussion on exhibits which were put in to show that rates were compensatory. One has nothing to do with the other.

Q. Well, why has one nothing to do with the other?

A. I beg your pardon?

Q. Why has one nothing to do with the other?

A. Well, this exhibit that Mr. Frawley is pointing to at page 56 of the appendix is an exhibit to show that motor truck and water competition rates in Eastern Canada on the commodities shown in the exhibit were not non-compensatory, they were compensatory rates. That is what that exhibit was prepared to show.

Q. You prepared this exhibit to show that?

A. Yes, sir.

Q. This is your exhibit?

A. Yes, sir.

Q. And what about it, then?

A. About the exhibit?

Q. You say that has nothing to do with the statement you made as read by Mr. Frawley?

A. I do not think it has anything to do with this part of page 13912 that Mr. Frawley read, where it says:

"Were lower value commodities charged their full share of the over-all cost of transportation, the rates on these commodities would not be radically different from the rates on higher value commodities."

Q. Well, in what respect are they not charged their full share of the over-all cost of transportation?

A. These commodities?

Q. Well, the commodities that you yourself in your language mean to indicate?

A. In the exhibit?

Q. No, no; in the language you have used there.

A. Well, all we are saying there is that if you gave effect to the cost of service principle, and all commodities, both the lower value commodities and the higher value commodities, paid their full share of the over-all cost of transportation, the rates on the lower value commodities would have to go up.

Q. Well, that is all subject to having a system based on the cost of service; is that it, Mr. Frawley?

MR FRAWLEY: I am not certain. I am going to pursue it now just a little bit further, Mr. Chairman.

THE CHAIRMAN: That is what Mr. Jefferson has just said.

MR EVANS: That is quite clear from the whole page of the transcript.

MR FRAWLEY: I am not taking the whole book; I am taking these words.

Q. Mr. Jefferson, would you mind again reading with

me those last four words? I am going to break it up into smaller parts.

MR EVANS: Read the question and answer before that.

MR FRAWLEY: Please, please!

MR EVANS: Just read the question.

MR FRAWLEY: I will not. I will read it as I think it should be read, Mr. Evans.

Q. Mr. Jefferson, will you read those last three lines with me again:

"Were lower value commodities charged their full share of the over-all cost of transportation" -- Now, I do not know who wrote this; you spoke it from something written down, Mr. Jefferson. Will you allow me just to transpose it slightly -- "If lower value commodities were charged" -- I think the English is a little more understandable; perhaps you agree with me, do you?

A. I don't know; I will have to get the rest of it first.

Q. No, no; just that expression "were". I suppose it is good enough as it is -- "Were lower value commodities charged their full share of the over-all cost of transportation". I am going to stop there. Now, Mr. Jefferson, I put it to you very plainly: Isn't there an implication there that lower value commodities are not charged their full share of the over-all cost of transportation?

A. To the same extent as the higher rated commodities, yes.

Q. Yes, but just stopping there, there is a suggestion there that they are not charged their full share of the over-all cost of transportation; that is fair enough, isn't it?

A. As I say, they cannot be.

Q. What's that?

A. They cannot be.

Q. All right. In any event, it is not unfair, though, it is not unfair to take that meaning out of those words, is it?

A. All right, I will go along with you that far.

Q. Now, I call your attention to the fact that the pig iron from Sault Ste. Marie to Montreal pays 48.8¢ a car-mile; it is only charged 27¢ a hundredweight; it is certainly a low value commodity, isn't it?

A. Yes.

Q. And that low value commodity contributes 48.8¢ per car-mile, and the high-rated commodity, the automobile, which is charged $1.18, contributes 22.2¢ per car-mile. Well, Mr. Jefferson, it is very simple; I put it to you that the lower value commodity cannot be said to be charged less than its full share of the over-all cost of transportation?

A. I do not think, Mr. Frawley, that you can take a statement of general principle on page 13912 and compare it with a specific rate.

Q. All right; I think I have pursued it enough. I think the thing now speaks for itself one way or the other. You certainly do not suggest at all now that the pig iron is contributing less than its share to the over-all cost of transportation when you compare it with automobiles, at least on those two movements I gave you?

A. It may or may not; I do not know.

Q. You still think that it may not be paying---

THE CHAIRMAN: Q. What is missing? What would you have to have before you before you would know that you have not now?

A. I say, Mr. Chairman, that you cannot take any specific---

Q. Well, what must you take to sustain what you have said there about these commodities of the lower class having to be charged higher if they were to pay their full share of the cost of transportation?

A. That is just a general statement of principle.

Q. Where do you get it from?

A. From my knowledge of---

Q. From experience?

A. Yes, sir.

Q. Well, can you give us some idea of a low commodity that would have to pay so much more if it were to pay its full share of the cost of transportation?

A. Well, to me, sir---

Q. Mr. Frawley shows you this item of pig iron; he says, "Here is what pig iron pays, and here is its yield."

A. On one movement.

Q. On one movement?

A. Yes, sir.

Q. Well, perhaps you are on the road to explaining now; you point out, this is only on one movement?

A. But the whole point, sir, of the sentence at page 13912 that Mr. Frawley read is well understood if you consider that to have every commodity, whether of low value or high value, pay its full share of the over-all cost of transportation, the rates on the lower value commodities would be higher. You might go so far as to say that rates on all commodities should be the same, if every commodity was going to pay its full share; you might go to that extreme.

MR FRAWLEY: Q. Mr. Jefferson, you do not mean

that the pig iron should be paying the automobile rate of $1.18?

A. I would not go so far as to say per hundred pounds, no.

Q. Because now, even at 27¢, it is contributing in car-mile earnings almost twice as much as the automobile ?

A. All we are saying on page 56 of the appendix is that the competitive rate on pig iron from the Soo to Montreal of $5.91 a gross ton, yielding, with an average loading per car of 115,160 pounds, 48.8¢ per car-mile, is a compensatory rate.

Q. That is certainly what you say?

A. Yes, sir.

Q. I am just challenging you on your suggestion that it is not contributing its fair share to the over-all cost of transportation.

A. We did not say it did not contribute its fair share; we said it did not contribute its full share.

Q. Yes, its full share.

A. Yes; that is not---

Q. Well, what would you expect more than 48.8¢ as the full share of the pig ron, when the automobiles are only contributing 22.2?

A. On that particular movement I do not know.

Q. All right. Now, Mr. Jefferson, let us turn to something else. In the same volume, just the next page over, you are describing the process of making special commodity rates?

A. The what?

Q. The process of making special commodity rates -- that seems to be so -- and this is what you say. After determining what the commodity is and what the movements are, and for what movements the rates are to be made, you

say this, at the bottom of the page:

"The next thing to determine is what rates are charged other similar industries on the same commodities for the same or similar movements."

A. I beg your pardon?

Q. I am just reading; do you see that?

A. Yes.

Q. "The next thing to determine is what rates are charged other similar industries on the same"---

THE CHAIRMAN: What rates are charged?

MR FRAWLEY: "What rates are charged other similar industries on the same commodities"---

THE CHAIRMAN: What industries have you in mind there -- similar industries?

MR FRAWLEY: I was going to pursue it, sir; I think it will be developed.

Q. The full sentence is:

"The next thing to determine is what rates are charged other similar industries on the same commodities for the same or similar movements."

Now, my question is, Mr. Jefferson, would it be fair to say that what other shippers are charged would be the dominant factor to which you would refer? I am assuming that---

A. We were discussing in that part of my direct evidence what would happen if you were making rates for a new industry in the Edmonton area such as a pulp and paper mill. Now, I say that if we made for the industry at Edmonton lower rates on its inbound materials or its outbound products than we made for other similar industries, we would immediately be in trouble and we would be before the Board of Transport Commissioners and have to explain why we gave preferential treatment to one industry which we

would not accord to another industry.

THE CHAIRMAN: Q. You are talking as between localities, are you?

A. Yes, sir.

THE CHAIRMAN: Not industries.

COMMISSIONER INNIS: I am a little confused about that statement, Mr. Frawley. It says "similar" and "same".

MR FRAWLEY: I will read it again:

"The next thing to determine is what rates are charged other similar industries on the same commodities for the same or similar movements. "

THE WITNESS: Yes, sir.

THE CHAIRMAN: Q. You must mean the same industries located elsewhere?

A. Located elsewhere, yes, sir.

COMMISSIONER INNIS: Q. Why couldn't you use "the same" instead of "similar" in each case?

THE CHAIRMAN: I think we know what it is, with the explanation that has been given.

COMMISSIONER INNIS: Q. There is no distinction involved there; you could use "same" instead of "similar" in each case?

A. Yes. I mean, the sentence could read, if you like:

"The next thing to determine is what rates are charged other industries on the same commodities for the same movements."

Is that what you mean? -- having in mind that "same" or "similar" means the distances may vary.

MR FRAWLEY: Q. Now, Mr. Jefferson, as long as there are other movements of the same commodity, you are not entirely free to make rates to meet the particular needs of one new shipper?

A. Not, I would say, under broad general principles.

We must treat the industries alike unless there are some competitive reasons.

Q. I was just going to add that. Put the competitive conditions aside, and you are not free to go to an industry and make a particular rate for that industry?

A. We are free to do it if we want to, but we would get in trouble if we did.

Q. So that you do not?

A. You would be the first one to take it to the Board if we did not treat you the same as we did an industry, the same kind of industry, somewhere else.

THE CHAIRMAN: Q. You mean that you would be then liable to the unjust discrimination charge?

A. Yes, sir.

THE CHAIRMAN: Well, that is right in the Act, of course.

MR FRAWLEY: Q. That means, speaking of pulpwood in Edmonton again, that you would give the same rate to him as you would to a pulpwood shipper in Northern Ontario, say?

A. We would give the same rate on pulpwood to a mill in the Edmonton area as we would give to a pulp mill if there was one at Prince Albert and as there is one at Kenora, Ontario, and Pine Falls, Manitoba.

Q. And that goes for anywhere, doesn't it?

A. Well, you have got to confine yourself now -- don't take me all over Canada; just take Western Canada, if we are going to talk Western Canada.

Q. Well, let us just talk about the rest of Canada.

A. There is a difference in the rates in Eastern Canada and Western Canada on pulpwood.

Q. I am putting competitive conditions aside always.

A. So am I.

Q. Always putting competitive conditions aside.

A. All I am saying is, there is a difference in the rates on pulpwood in the west and east. The rates in the west are lower than in the east.

Q. But you would certainly treat the new man at Edmonton the same as at Pine Falls and Kenora?

A. Yes, sir.

Q. Now let me take you to volume 76, please, Mr. Jefferson; will you look at page 15444, towards the bottom of the page, where in answer to Commissioner Innis you say:

"You have a general basis of livestock rates, and you would not reduce the livestock rates for a man in order to give him an advantage over another livestock shipper."

A. Yes, sir.

Q. Now, this general basis that you speak of there, I suggest, greatly simplifies the process of ratemaking; is that true?

A. I do not know what you mean.

Q. Well, you say you have a general basis of livestock rates, and you would not reduce the livestock rates for a man in order to give him an advantage over another livestock shipper. I suggest that that simplifies your problem largely, doesn't it?

A. Quite right; within Western Canada we have a mileage scale of rates on livestock for all movements, and the rates are applied for all movements.

Q. And would not similar conditions and similar considerations apply to most agricultural products and forest products and mine products?

A. I would not say on grain.

Q. No, no; but you have the same general basis, you say, of livestock rates?

A. Yes, sir.

Q. Well, haven't you got the same general basis of rates on the products of the mine and products of the forest?

(Page 15920 follows)

A. We have on coal, yes; we have on lumber, yes, sir.

Q. All I am saying, Mr. Jefferson, is that having that general basis simplifies the process of rate making very considerably, does it not?

A. Where you have a mileage scale or you make point to point rates by the use of a constructive mileage scale, yes.

Q. And if you have a formula upon which existing rates on a commodity, for instance, pulpwood or newsprint, are made, you adhere to that formula rather than adopting a more favourable rate for a particular shipper? That is true, is it not?

A. Yes -- now, when you are taking newsprint are you taking the movement within Canada or from Canada to the United States?

Q. Within Canada.

A. Within Canada, yes.

Q. You do that even where there is no competition between shippers?

A. Even though there is no direct competition?

Q. Yes, you adhere to your formula?

A. Yes, we treat them all alike.

Q. I put it to you that your willingness and your freedom to modify such commodity rate bases to meet conditions affecting a single shipper will depend on the amount of the traffic moving from other points under the same formula?

A. I do not know that I get that question.

Q. I will put it for you again. Your willingness and your freedom to modify such commodity rate bases to meet conditions affecting a single shipper -- that is, if you were asked by a single shipper, in other words, to give him a modification of your commodity rate bases --

that would depend on the amount of traffic moving from other points under the same formula and for which you would have to make the same reductions, would it not?

A. Well, under normal conditions we would not --

THE CHAIRMAN: Louder, please.

THE WITNESS: Under normal conditions we would not treat one shipper any different than another shipper whether he had one car or one hundred cars.

MR. FRAWLEY: Q. That is true. If a man that is establishing a pulp mill at Edmonton asked you for some special consideration you would hesitate to give that to him because you would feel you would have to make the same reduction at Pine Falls and Kenora?

A. Yes, sir.

Q. Just turning over the page, you are speaking of the same matter, and you gave an example of a new plant to make washing machines, and you said this:

"The railways themselves would not give that man any rate on his washing machines" --

A. Where are you?

Q. Near the top of page 15445.

"The railways themselves would not give that man any rate on his washing machines which would not be fair and comparable with the rate which his competitor, who is making washing machines, would pay."

A. Yes.

Q. That is what you said. Do you mean that the only thing that keeps you from giving one producer a more favourable rate is the existence of direct competition in a common market?

A. We would not give a man in Ottawa a lower rate on his washing machines than we give a man in Fergus, Ontario.

Q. And it is the same thing in western Canada if they were making them there?

A. Yes.

Q. And that is what you mean; you have in mind the fact that these two people at Ottawa and Fergus are selling into the same common market?

A. Yes.

Q. That is why you maintain that general basis?

A. Whether or not they were selling in the same common market normally we would give them the same basis of rates.

Q. Let us get away from the two washing machine factories in Ontario and suppose somebody wanted to establish a washing machine plant in Calgary, for instance, somewhere in Alberta?

A. Yes, sir.

Q. And wanted to sell into the same western Canadian market that the people in Ontario are selling into?

A. Yes, sir.

Q. What would be the considerations which would enter into the making of the rate for him?

A. No difference.

Q. You would not give him any rate on his washing machines that would be any advantage over the man shipping in from Fergus?

A. I do not know what class washing machines take in carloads. It is 5th class. If a producer of washing machines in Ottawa or Fergus was shipping carloads to western Canada he would pay the 5th class rate. If a washing machine industry started at Calgary and they were shipping in carloads to Medicine Hat, Regina or Winnipeg, they would be expected to pay the 5th class rate.

Q. And if they were not shipping into the same market, would there be a different consideration at all?

A. They would still pay 5th class unless there were some other competitive reasons that required special treatment.

Q. Let us keep away from that angle.

A. We are keeping to normal rates?

Q. Yes.

THE CHAIRMAN: Q. These normal rates have no regard to the market?

A. To the market?

Q. To the place where --

A. They may have regard to the market, but if one shipper can pay 5th class to the market we say the other shipper should be expected to pay 5th class to the market.

MR. FRAWLEY: Q. And the 5th class rates are different in the west and from the east to the west?

A. That may be, but it is 5th class.

Q. Then you would stop there, and if there was a disadvantage when you compared these two 5th class rates you would allow that to remain?

A. We will take Winnipeg as a central point. We will take washing machines shipped from Ontario to Winnipeg 5th class and from Calgary to Winnipeg 5th class.

Q. How about if they were made in Calgary and they were being shipped into Saskatchewan, let us say?

A. Into Saskatchewan?

Q. Yes.

A. Fifth class.

Q. And that would be a higher rate than your rate from Fergus into Saskatchewan?

A. It would not be a higher rate, no.

Q. I mean a higher rate basis. It would be less dollars, but it would be a higher rate. Fifth class rates out of Calgary would be higher than the 5th class rate from Fergus to Saskatoon?

A. I would not want to answer that question without checking it. It might be a higher rate from Calgary to a point in Saskatchewan for the number of miles you were shipping than the rate from Fergus for the same distance in eastern Canada.

Q. Would you feel free to give more favourable rates to other markets where a new producer was not in competition with other shippers on your lines?

A. Give him lower rates?

Q. Yes, if a new man was not in competition with other shippers?

A. That would depend on the commercial conditions existing with respect to the marketing of that product in any particular market. If from our study of the situation we did not think he needed any rate lower than 5th class we would not give him any lower than 5th class, but if he made out a good case and we thought he should have something lower than 5th class we would give it consideration.

Q. Regardless of the fact that no one else on your lines was competing into that market with him?

A. If no one else was shipping into that area, what we are discussing, then you would not be worried about an attack of discrimination, but you would not reduce the rate unless you felt there was a necessity for reducing it.

Q. And what would constitute necessity?

A. I do not know. That all depends on what the shipper advances. You cannot lay down any fast and

rigid rule on a question of that kind.

Q. It is just left to you and the shipper at the moment?

A. Yes, sir.

Q. If a new plant were opened at a point in Alberta would its rates be determined for it by the rates paid by the existing producers? I am speaking now of pulpwood.

THE CHAIRMAN: Of what?

MR. FRAWLEY: Pulpwood.

THE WITNESS: Would you ask that again?

MR. FRAWLEY: Q. Yes. The only pulp and paper manufacturers in western Canada are on the Pacific coast, and at Pine Falls in Manitoba and at Kenora in Ontario?

A. And Dryden.

Q. Dryden in Ontario, yes.

A. Fort William, Port Arthur.

Q. If a new plant were opened at a point in Alberta would its rates be determined for it by the rates paid by the existing producers?

A. If a pulp and paper industry were built in the Edmonton area and producing wood pulp and newsprint paper, and marketing it in the same areas, whether in Canada or the United States, as the other mills in Manitoba and western Ontario, we would not give them any better basis, any different basis of rates than we gave the Ontario and Manitoba producers of pulp and paper.

Q. Would differences in pulpwood or newsprint rates among the producers be a possibility if there was no competition in the same market? If newsprint manufacturers in northwestern Ontario were not coming into Saskatchewan and the Edmonton man was going into Saskatchewan would that warrant any difference in rates?

A. Mr. Frawley, when you discuss pulp and paper mills, the market for the product in the prairie provinces is not important.

THE CHAIRMAN: Q. Is not what?

A. The market for the product is not important. The market for the product is in the United States.

MR. FRAWLEY: Q. Tell me, Mr. Jefferson, have you any examples of such rates within western Canada, that is, rates given to particular shipping points to the exclusion of other similar shipping points for the express purpose of assisting industry at the former point?

A. No. If you have any examples I would be glad to discuss them with you, but I have not any.

Q. No, I have not any, but I was wondering whether you had any examples of rates given to particular shipping points for the express purpose of assisting an industry at that point to the exclusion of other similar shipping points?

A. No doubt we have rates in effect to assist industry, but I cannot pick any out at the moment. You would have to be very careful in making a rate to assist an industry if another industry was producing the same product.

Q. That really means then that rate making to meet the special needs of the shippers would have to have in mind all shippers of a particular commodity as a whole? Is that not so?

A. Would you ask that again?

Q. I say rate making, to meet the special needs of the shippers, would have to refer to all shippers of a particular commodity as a whole?

A. Yes, sir. I say that we would treat all shippers alike unless there were some special competitive reasons

requiring different treatment of one than the other.

COMMISSIONER INNIS: Q. Mr. Jefferson, would you be involved in any way with the position taken, for example, by your competitor, the Canadian National, or are you speaking now as a sort of principal of the Canadian Freight Association?

A. Principal of the Canadian Freight Association or of the railways as a whole -- I do not know --

Q. You are not speaking of the C.P.R.?

A. Oh, no. I mean I do not recall any cases where the Canadian Pacific or Canadian National would have opposite views in principles of rate making.

Q. But one railway might be interested in developing a particular industry?

A. Yes, sir.

Q. And the other railway might be interested in developing the same industry. Are they compelled to charge similar rates or can they use different developmental rates?

A. Each railway could use its own judgment, but if I was making a rate on a commodity from some existing point of production or some new point of production on the Canadian Pacific, at a local point on the Canadian Pacific, and the product was to go to a common market such as Winnipeg, and there was a similar industry at a local point on the Canadian National Railways, the Canadian Pacific would in making rates for the industry on its line recognize or give some recognition to the rates that were in effect from the local point on the Canadian National to Winnipeg.

Q. But it would not necessarily be the same?

A. No, sir, but if the industry on the Canadian

National could pay their basis of rates there would be no reason why the industry on the Canadian Pacific could not pay the same basis of rates to a common market.

Q. I understand that. I was wondering how much freedom each railway had in --

A. Each railway has freedom to do as it likes.

THE CHAIRMAN: Q. Are you considering the question of distance from that common market?

A. Oh, yes; yes, sir.

MR. FRAWLEY: Q. Now, Mr. Jefferson, I want to discuss something else with you. Let us suppose there is a complaint to the Board by someone that one of your rates is not just and reasonable. Let us suppose there is no question of discrimination involved. What onus, if any, do you feel there is on you to show that your rate is just and reasonable?

MR. EVANS: That is a legal question.

THE WITNESS: I think the onus is first on the shipper to show that it is unreasonable and then we meet that.

MR. FRAWLEY: Q. So that there is not any onus on you in the first instance to show that your rate is just and reasonable?

A. Not on his complaint, no, sir.

Q. He must show that it is unjust and unreasonable?

A. Yes, sir.

Q. Now, I want to look at Part I --

THE CHAIRMAN: Q. In such a case what is the answer to the charge of a rate being unjust and unreasonable? How do you solve the problem? You say he must show that it is unjust and unreasonable? How does he proceed? I should like to know something about that.

A. How does the applicant --

Q. You are leaving aside the question of discrimination according to Mr. Frawley's hypothesis, and you have a shipper come in and say, "Here is the rate they charged me, and I claim it is unjust and unreasonable." What do you measure it by? Can you tell me that, Mr. Evans?

MR. EVANS: I get it out of a number of cases. You remember you asked me about this last week. I have secured a large number of cases. I have not finished my review of them. I can give you in a nutshell what I think are the principles, if you would like them.

THE CHAIRMAN: Yes.

MR. EVANS: The first thing is you look at other rates as a basis of comparison. The next thing is that they must be such as provide a reasonable return to the railway, in other words, they must be compensatory. I think those are the principal ones. An example of that first one is in the Dawson, White Pass and Yukon case that I referred to the other day. One of the bases of comparison was what were the rates charged by the Canadian Pacific in mountain territory in British Columbia? They used that; they also used their ton mile earnings from rates although they said that is not controlling. I think you will find that the comparison with other rates, the ton mile earnings, and whether the rates are compensatory both from the standpoint of out-of-pocket costs and dealing with the generality of rates whether they make a sufficient return -- that those are the principal matters that enter into reasonableness. As I told you the other day there is no sharp definition. You have to piece this out of a lot of cases.

THE CHAIRMAN: Then we will hear more about that later.

MR.EVANS: Yes, sir.

MR. FRAWLEY: Q. Mr. Jefferson, I should like you to look at page 57 of Part I and I should like you to go down to the last sentence before 39(a), which reads:

"In order for rates to be just and reasonable to the shipper the Railway Act provides the following protection:-

(a) It provides that rates shall not exceed the so-called maximum or standard tariffs which all railways are required to file and have approved by the Board of Transport Commissioners. These rates may not be increased without approval of the Board."

(Page 15930 follows)

"The railways, however, are free so long as they do not exceed these maxima to make rates lower than the maxima, designed to develop industry, to move the maximum amount of traffic and to meet competition".

Now then, Mr. Jefferson, leaving aside again matters of unjust discrimination or undue preference, does that sentence mean that there is no onus on the railways as to reasonableness apart only from that of not exceeding the standard class rate?

MR. EVANS: That is a legal question as to where the onus lies in that case. I do not think Mr. Jefferson should be asked that question.

MR. FRAWLEY: Well, of course, with respect, I think I am entitled to pursue the matter. Here is a man who makes rates.

THE CHAIRMAN: Well, ask him again.

MR. FRAWLEY: Having read that evidence, Mr. Jefferson, and you are the person who takes responsibiltty for that paragraph as well as everything in this Brief, I take it, on rates - -

A. I will take part of it.

Q. Will you not take responsibility for everything you have presented here as a witness?

A. Yes.

Q. That part I read to you then;

"The railways, however, are free so long as they do not exceed these maxima to make rates lower than the maxima, designed to develop industry, to move the maximum amount of traffic and to meet competition."

Now, I simply put it to you, do you mean by that that there is no onus on you as to reasonableness apart only from the fact that you must not exceed the standard class rates?

A. In answering that in my own language, I would say, that anyone who complains to the Board that the rate is unreasonable must make out their case. Then we would have to answer it.

Q. And how would you answer it?

A. We would answer the complaint.

Q. Would you answer it by simply saying that they were less than the standard class rates?

A. Not necessarily, no.

Q. You think you would have to say something more than that?

A. It would depend entirely on the nature of the complaint.

Q. Now, let us take an example. Will you look at Volume 58, please?

THE CHAIRMAN: Volume what?

MR. FRAWLEY: Volume 58 of the Transcript, page 11168.

MR. SINCLAIR: This is part of your Brief, is it not, Mr. Frawley?

MR. FRAWLEY: That is right; it is the table on page 11168 that I want to direct your attention to.

A. Which Brief?

Q. It is the "Rate" Brief.

A. "Rate Making Principles and the Rate Making Structure"?

Q. That is right, that is the Brief, Now, at 11168 there are some commodity mileage rate tables, and will you look at the one for asphalt and asphalt products?

MR. SINCLAIR: What page is that in your Brief, Mr. Frawley?

MR. FRAWLEY: 59.

THE CHAIRMAN: You are still dealing with paragraph (a) on page 57?

MR. FRAWLEY: Yes, sir, just and reasonable. Now, looking at this table on asphalt and asphalt products Ontario - Quebec vs Prairie, you see that for 75 miles the rate in Ontario - Quebec is 18¢ and the rate in Prairie Territory is 18¢?

THE CHAIRMAN: The same rate?

MR. FRAWLEY: The same rate. For 100 miles the rate in Ontario - Quebec is 21¢ and in the Prairie is 19¢?

THE WITNESS: Yes, sir.

Q. In other words, the rate is 2¢ less in the Prairies at 100 miles?

A. Yes.

Q. And for 500 miles the rate in Ontario - Quebec is 28¢ and the rate in the Prairie Territory is 41¢; in other words, the Ontario - Quebec rate is 13¢ less?

A. That is providing the rates shown here are correct. I have not checked them.

Q. Well, assuming that - they were taken from the tariff; let us assume they were correctly taken. So the situation is this, that on moving this asphalt

and asphalt products - these rates were prior to the 8% increase, but there would not be any different relationship after the 8% increase?

A. That is right.

Q. Then, summarizing in a moment, at 75 miles you have the same flat mileage scale to move asphalt and asphalt products in Ontario and Quebec as in the west and at 100 miles you are 2¢ more in Ontario and Quebec and at 500 miles you are 13¢ under?

A. On 500 miles, yes, sir.

Q. Now, you say, that there is no onus on the railways to justify the reasonablesness of these rates?

A. Of these rates?

Q. Yes, those rates I have just quoted to you ?

A. Not unless there is a complaint.

Q. And if there is a complaint, you still have no onus to discharge until, you say, the complainant has finished telling his story?

A. That is right.

Q. You say it is not sufficient if the complainant should go in and put the mileage scales on the table in front of the Board and ask the Board to draw a conclusion as to reasonableness or otherwise just from looking at the mileage scales?

A. No, I don't think there is any competition in the marketing of asphalt in Western Canada as compared with Eastern Canada.

Q. We will just take that step by step, Mr. Jefferson. You say at the moment there is no onus

on the railway to justify those differences?

A. No, sir.

Q. Now, you have the Act in front of you - 314. Have you a copy of the Act? The first sub-section:-

"All tolls shall always under substantially similar circumstances and conditions, in respect of all traffic of the same description, and carried in or upon the like kind of cars or conveyances, passing over the same line or route, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise."

THE CHAIRMAN: Now, don't you get back there to the point I raised at first of what is meant by "passing over the same line "?

MR. FRAWLEY: I intend to pursue, I intend to break up the section into all its various components and to ask Mr. Jefferson some questions.

THE CHAIRMAN: I would be very glad because I still do not know what is meant by "passing over the same line". Does that mean whole lines from Halifax to Vancouver or does it mean different geographical sections?

MR. FRAWLEY: Well, I really think we have the very best man to tell us right here.

THE CHAIRMAN: How he applies it?

MR. FRAWLEY: That is right.

MR. EVANS: I was just going to point out to you that Mr. Jefferson would take advice from his Law Department on this question.

THE CHAIRMAN: Well, of course, he will tell

us that then, when the time comes if that is the case. Go on, Mr. Frawley.

MR. FRAWLEY: Now then, do you not agree with me, that you must show that you charge tolls equally either by pointing out that they are equal, and of course you cannot do that in this instance with these asphalt rates (we will agree with that to start with) you cannot tell us they were equal?

A. The scales are not equal.

Q. The dollars and cents are not equal for those distances I have given?

A. That is right.

Q. Now, not having been able to point that out, wouldn't you have to establish and point out that the circumstances and conditions were dissimilar?

THE CHAIRMAN: I thought you were going to follow the wording of the statute step by step? In order to get the premise, you see, you must do that. The section expressly says:

> "...in respect of all traffic of the same description, and carried in or upon the like kind of cars or conveyances, passing over the same line or route..."

It is then that all tolls must be the same.

MR. FRAWLEY: That is right, so that if the circumstances and conditions were not substantially similar - -

THE CHAIRMAN: Not only that, but if these different rates are not on the same line or route, then you are off right away.

MR. FRAWLEY: That is true, but I feel they are sort of disjunctive there.

THE CHAIRMAN: Well, go ahead then.

THE WITNESS: They are not on the same line or route if they are in two sections of the country.

MR. FRAWLEY: We will see if we get down to that. Now, how about the "substantially similar circumstances and conditions"? Would you agree that they were substantially similar?

A. Would agree they were?

Q. Yes.

A. No, I would not agree.

THE CHAIRMAN: Must not these "circumstances and conditions" be similar only on the same line or route? How can you get away from that?

MR. FRAWLEY: "Under substantially similar circumstances and conditions in respect of all traffic of the same description, and carried in or upon the like kind of cars passing over the same line or route...."

THE CHAIRMAN: Now, there is the point.

MR. FRAWLEY: Yes, they must all be there. That is right, sir. I quite agree. All of the conditions must be present to impose any obligation for equality.

THE CHAIRMAN: You must, in the first place, have a particular line or route. Now, I say I do not know whether that means the Canadian Pacific Railway between Halifax and Vancouver, or whether it means a great number of smaller sections which constitute a line or route. Having your "line or route" seems to be the basis.

Then you can see whether you have the "same description of traffic" and "carried in the same kind of cars" and whether the conditions are similar.

We had better have a short adjournment.

...RECESS

...UPON RESUMING

MR. FRAWLEY: Mr. Jefferson, as I said just before we recessed, let us go at once then to the end of the section:-

"...passing over the same line or route" apparently controls whether you must charge equally to all persons and whether at the same rate. Now, what do you say as to whether or not the asphalt which you move from, say - What are your asphalt movement places in the west - Calgary and Regina?

A. Well, asphalt is usually produced where there are oil refineries.

Q. And the principal oil refineries in Western Canada are at Calgary, Moose Jaw and Regina on your main line?

A. That is right.

Q. And in Ontario there is a good deal of asphalt turned out at the refinery at Sarnia?

A. Yes, sir.

Q. That is not on your line though?

A. No, sir.

Q. And a lot at Montreal?

A. Yes.

Q. Now, what do you say, with those facts as a

background, as to whether or not these movements are, these two respective movements that I have called your attention to, and whether the rates are dissimilar or different as I have indicated, whether they "pass over the same line or route"?

A. Well, I understand that Mr. Evans is going to give some interpretation of what "the same line or route" means. I do not know that I want to get into that argument until Mr. Evans makes his argument.

Q. You have not any views on the subject at all?

A. My views may be all wrong.

Q. They could be, but what are they? That is the thing I would like to know, Mr. Jefferson. Do you say that these do pass over the same line or route, that is the two commodities, the asphalt moving in Western Canada, and the asphalt moving in Ontario and Quebec? Do they, or do they not, pass over the same line or route?

A. I would say they do not.

Q. You would say they do not?

A. Yes.

Q. Then this section 314 - -

THE CHAIRMAN: 314. 1.

MR. FRAWLEY: 314.1 does not require any equalization as between Western and Eastern Canada?

A. Does not require?

Q. Does not require that the rates be equal - Prairie and Ontario - Quebec.

A. I don't know.

Q. Well, would not that follow, Mr. Jefferson? If you say that asphalt, moving from the same origin is passing over the same line or route, then it follows from your interpretation, tha t to pass over the same line or route they would have to move from the same origin or the same destination?

A. That is right, or between those two.

Q. That being so, then only when those conditions apply, must there be the equality of which section 314.1 speaks?

A. You see, equalization of rates might be desirable, Mr. Frawley, but I do not know that it would ever become a complete reality. I do not know that it can.

Q. Well, it certainly cannot under this present Section 314.1. You would agree with that?

A. There is nothing in that Section to prevent it.

Q. Nothing to prevent it?

A. No.

Q. Well, this Section does not require you to equalize, to have those asphalt rates the same?

A. That may be, but there is nothing to prevent it.

Q. Well, there is certainly nothing in this Section to require it?

A. That may be.

Q. Suppose that I felt that it was not right to charge me 41¢ for 500 miles on asphalt products and charge 28¢ on the same day and month in Ontario and Quebec, and I said that is inequality that offends

Section 314.1. Well, in your interpretation, Mr. Jefferson, it would not take long to dismiss that complaint, would it?

A. I would not think that people in Western Canada would want it a complete requirement, because if it was, they might find themselves worse of than they are today with respect to the movement of many commodities.

Q. Well, just taking one thing at a time, because it is impossible to discuss all commodities at once, just discussing this Section, and just assuming that I would want to go to the Board and complain that I was being charged 41¢ and in Ontario and Quebec for the same distance they were charged 28¢ for the same, or not quite as good asphalt, now, what would you say? It would not take very long, would it, to dispose of that complaint against you because you say:- "Well, you are not shipping from the same origin to the same destination", and that would be the end of it?

A. Well, if you wanted that rule in legislation on asphalt and it was a rule on everything, I say it would be detrimental to you.

Q. But we are getting away from that. Never mind whether it is detrimental or not. I am just putting to you the case as to whether or not I could possibly require you, through the Board, to equalize those rates, 28¢ and 41¢, by means of this Section, and you say, no?

A. You would have to make out a case of some kind and I don't know what your case would be.

(Page 15940 follows)

Q. That is right; and I could not make out a case under section 314(1), because you say that means the asphalt must be moving from the same origin to the same destination?

A. I do not know what section you would make it under, but there are many decisions of the Board in respect of rates east and west.

Q. I know; I have heard about those decisions; but, Mr. Jefferson, just attending to my question, because I know that you want to answer my question and let me get on with something else---

A. I am not trying to evade you.

Q. No, I am sure you are not, Mr. Jefferson; you are anxious to call my attention to the fact that I am lucky if I do not get equalization; that is what you say?

A. On some commodities, that is so.

Q. Well, as I say, we will live and learn about it; but at the moment I could not go to the regulatory body and require you to equalize rates on asphalt Ontario-Quebec versus prairie?

A. Not by a mere rate comparison.

Q. Not by a mere rate comparison; and because you say they do not pass over the same line or route?

A. Yes, sir.

Q. Now I pass on to something else, Mr. Jefferson. Will you look at volume 67, and turn to page 13869, where you will find that you are reading from Part I of your brief; you are reading from page 45 of Part I, as a matter of fact, but just looking at this page in the transcript---

A. What subject?

Q. Well, it is a comparison of freight rates between Canada and the United States, one might say, generally speaking.

A. Oh, yes, sir.

Q. Now, I am going to read you what you say on page 13869; I will read the whole paragraph:

"Certainly, the economic history of Canada provides no support for any theory that either the general level of freight rates, or the method by which they have been established and regulated in the past, have been responsible for inhibiting the normal development of the nation."

Now, that is by way of preliminary.

THE CHAIRMAN: What is that you are reading from?

MR FRAWLEY: I am reading from Part I of the Canadian Pacific brief, at page 45, and it is about the middle of the page, the full paragraph. I have not read the last sentence, and it is the last sentence that I really want to ask about:

"In this connection, Canadian Pacific draws particular attention to the comparison of freight rates in Canada with those in the United States."

Now, before I ask you, I want you to go to 13861, which is just a few pages back; it is on the same point, and I want to put them both together. At the very bottom of page 13861 you say:

"Well, it always seemed to me that railway operating conditions prevailing in the Northern part of the United States immediately south of the international border are fairly comparable with such conditions in Canada."

Now, what do you mean by the expression "operating conditions" as you use it at the bottom of page 13861?

A. Well, I do not know of any -- we are talking of Western Canada now?

Q. Yes.

A. I do not know of any better comparison of rates from a geographical point of view than to compare the rates in Western Canada with the rates in Northwestern United States, not only from a geographic point of view but from an operating point of view or climatic point of view or what not. The things are very similar.

Q. Now, Mr. Jefferson, we are talking now of Western Canada, you said?

A. Yes, sir.

Q. And I said Yes. Perhaps that is what you meant, but as a matter of fact you simply said Canada; at the bottom of page 13861 you spoke about the northern part of the United States immediately south of the international border being fairly comparable with such conditions in Canada?

A. That is right.

Q. And then at the top of the next page you say:

" And with this thought in mind, it would not be unfair to make a comparison of rates charged by railways in the Northern part of the United States with the rates in Canada."

Again you say "in Canada", not Western Canada?

A. I know, but I just wanted -- in answering your question I just wanted to get an understanding whether we weretalking all the way across Canada or just Western Canada.

Q. I perhaps should ask you whether you were talking all the way across Canada?

A. I was, yes, sir.

Q. You were?

A. Yes, sir.

Q. And you have just said now that you say there is a similarity of conditions throughout?

A. Yes, sir.

Q. Now, Mr. Jefferson, you are aware that your railway and the Canadian National Railways have made a statement to a Board of Conciliation and Investigation which has been considering a request by certain groups of railway employees for a wage increase of 7 cents per hour and the establishment of a forty-hour week?

A. Yes, sir.

Q. And you are aware that the railways have made representations to that Board of Conciliation and Investigation?

A. Yes, sir.

Q. I would like to read to you just two or three passages from that statement. On page 11, under the general heading of "Disparity with the United States rates"---

MR EVANS: This is a statement of the Railway Association?

MR FRAWLEY: It is called "Statement of the Railways". Whether or not it has been particularized -- no, it says "the Railways" -- the railways represented in these proceedings.

Q. So I take it that certainly at least your railway is one of them?

A. Yes sir.

Q. In fact, your railway and the Canadian National Railways are the two principal railways that are making this statement, I take it?

A. The two principal railways in Canada.

Q. That is right. I will read to you what they say at the top of page 11, and they are quoting from a statement made by a Board of Conciliation and Investigation under the chairmanship of Mr. Justice J. C. A. Cameron in March of 1948 -- you know about that board too?

A. I know they had a conciliation board at that time, yes, sir.

Q. The statement which I am just reading to you is quoted with approval now by the railways:

"The economic, geographical and political considerations which determine the standard of living in Canada are not at all similar to or comparable with those in the United States."

Then I read for you another statement which is quoted with approval from the report of the Board of Conciliation and Investigation under the chairmanship of Mr. Justice A. K. McLean, which had to do with an application made in 1935 ; perhaps you remember that?

A. When?

Q. 1935, under Mr. Justice McLean?

A. I do not recall it.

Q. In this report the Board, the McLean Board, said: "Separate national control and regulation of earnings must make the railways of the two countries into separate national systems. National policies such as those in respect to development of resources, domestic and foreign trade, and price levels, create differences in operating conditions for these railway systems which are beyond their control. So do geography, climate, and the distribution of population. While there are many advantages in there being like standards and practices in the two systems, it seems reasonable to us that in any particular case similarity in governing factors should be established as a fact before the example in one country can be urged as a fixed rule in the other."

MR SINCLAIR: Speaking of all railways all over the United States, is it not?

MR FRAWLEY: Speaking as Mr. Justice McLean was

speaking in 1935.

Q. Now, I want to read you one more section from page 17, paragraph 34, of this statement, and this is not a quotation from another source, it is the railways' own statement:

" Railways' Exhibit No. 5 shows how this higher density of population served is reflected in the density of traffic in the two countries. Revenue freight ton miles per mile of road in the United States as a whole in 1948 was double that in Canada. Passenger miles per mile of road were more than double those in Canada. Total operating revenues per mile of road in the United States in 1948 were 109% greater than in Canada."

I will read you now a short passage from page 13, paragraph 25, of this statement:

"The clearest indication that there is a difference between the economies of Canada and the United States and that they are being subjected to different forces lies in the fact that Foreign Exchange Control is still believed by the Government to be necessary to maintain a fixed relation in exchange value between the Canadian dollar and the United States dollar. Were there no major differences between the two economies and were they not differently affected by happenings in the outside world, one could expect their currencies to find a stable and reasonable relationship without artificial restriction."

On page 14, paragraph 27:

"Naturally a country so dependent on world trade as Canada is far more vulnerable to fluctuations in world prices than one such as the United States which is so largely self-sufficient."

And at the bottom of page 14, paragraph 28:

"With its economy so dependent on external trade the national income of Canada is affected to a much larger degree by external forces than that of the United States."

And at the bottom of page 15, paragraph 30:

"As it would be only natural to expect, the general economic differences between Canada and the United States have led to substantial differences in the specific economic situation of the railways in the two countries. These differences are enhanced by the vast area and low density of population of Canada."

Now, Mr. Jefferson, I simply put to you that the railways that were making those statements to the current Board of Conciliation and Investigation thought that there was a great difference in many respects between Canada and the United States; you would not disagree with those statements, I take it, would you?

A. In our submissions here to the Royal Commission we are dealing with freight rates. I do not know of any better comparison for freight rates than to compare the freight rates in Canada with the northern part of the United States. If we had made the comparison with freight rates in the central part of the United States or in the southern part of the United States, you would have been the first to object. We made our comparisons in the best way we thought they should be made.

Q. You say you made them in the best way you thought they should be made?

A. Yes, sir.

Q. I am suggesting to you that your own company thinks that there are very great differences in population density, location of markets, wage levels, other price

levels of other commodities AND supplies, foreign exchange rates, and so on, between Canada and the United States?

MR EVANS: As a whole.

THE CHAIRMAN: Then you mean, Mr. Frawley, to suggest that those different conditions in the United States justify and explain the higher freight rates there?

MR FRAWLEY: Well, they do; they do indeed, sir, in many instances, yes.

THE CHAIRMAN: I take it that is what you are suggesting.

MR FRAWLEY: That is right, sir, that is right.

Q. Now, the fact is that in the United States class rates have been increased on the average between 60 and 70 per cent since 1942; isn't that right?

A. In what part?

Q. In the United States generally?

A. As a whole?

Q. Yes.

A. That may be.

Q. While the Canadian rates have been increased by 21, and then later by 8 per cent?

THE CHAIRMAN: What is the United States figure, please?

MR FRAWLEY: Well, I am going to take a more exact figure.

THE CHAIRMAN: What was the figure you put just now?

MR FRAWLEY: 60 to 70, I put.

Q. As a matter of fact, your own company uses the figure 57 per cent, doesn't it?

A. In the United States?

Q. Yes.

A. That 57 per cent that you speak of is on all traffic in the United States.

Q. Yes, over all, over-all increase?

A. Whether class rate traffic or commodity traffic -- all freight traffic.

Q. I show you a graph taken from the Montreal Gazette on the 18th of February.

A. I saw it.

Q. That, as a matter of fact, is a chart which accompanied the statement to the Conciliation Board by the railways from which I have read extracts -- I think it was; I am not certain, Mr. Jefferson; could you tell me?

A. Neither am I, but from what the story is underneath it, it would indicate that that was so; but I do not know it of my own knowledge.

Q. And this indicates that freight rates, the over-all increase in freight rates since 1939 has been 21.8 per cent in Canada and 57 per cent in the United States?

A. That is yield.

Q. That is yield?

A. Yes, sir, that is yield.

Q. Now, the fact that rates rose 57 per cent in the United States since 1939, and only 21.8 per cent in Canada, means that prior to that time, prior to 1939, a very different comparison obtained for a long time; that must follow?

A. It may be; it may or may not be so, depending on the commodity you are discussing and the rates in effect at that time.

Q. Well, I think it is quickly illustrated if you will go to page 53 of your appendix. Now, if you will look at the top two rates, those are all I am going to ask you about -- the rate from Toronto to Regina, the rate to be found in Tariff 4-F, class rate, and the rate from Buffalo, New York, to Gillette, Wyoming, which is used by you because it shows

similar mileage?

A. Yes, sir.

Q. And the tariff reference to that is CFA-491-D. Now if you will look at the rates for classes 1, 2, 3, 4 and 5, and if you will bring the United States rates back to what they were in 1939, assuming that the rate was 57 per cent -- and probably it should be more in the class rate, should it not?

(Page 15954 follows)

A. No, you could not bring it back that way.

Q. Why couldn't you bring it back that way?

A. Because the increases in class rates in northwestern United States may not have been increased 57.3 per cent. I do not know.

Q. Can you say they were increased by any less per cent, the class rates in northwestern United States?

A. No. They may have been increased more. But there is one thing you must bear in mind: that the increases of the Interstate Commerce Commission, in their decisions, from 1939 up to the present date, authorized different increases in different territories, and different increases inter-territorially.

We all know that the class rates in the eastern territory were increased by a far greater percentage than in western territory.

In eastern territory they had an increase. I think it was in 1947. I think the final effective date was in Docket 28300. They had separate increases in their class rates and, at the same time, in western territory they had a reduction in class rates.

Q. Now, I put it to you: the result of assuming a 57 per cent increase in these United States rates from Buffalo, New York to Gillette, Wyoming, and a 21 per cent increase in the rates from Toronto, Ontario to Regina, Saskatchewan.

Assume that, and if they are correct, when one looks at the increase which was actually made in the various class rates between Buffalo and Gillette, the comparison would be effective.

But assuming it could conceivably have been less, would it have been much less?

A. I do not know. I do not like to make too many assumptions without checking the facts.

If you want to know what the rates were from Toronto to Regina as compared to the rates between Buffalo and Gillette in 1939, they could be ascertained.

Q. You say they could be ascertained. Very well, I shall now risk putting to you a computation which has been made for me, and which will have to stand corrected after it has been checked.

We have used the 57 per cent increase to bring back the rates in 1939. And when you compare Toronto to Regina, classes 1,2,3,4, and 5, with Buffalo, New York to Gillette, Wyoming, classes 1,2,3,4, and 5, you will find, on the assumptions and calculations I have made, that the Canadian rates were higher at that time, as to class 1, by 27 cents; as to class 2, by 13 cents; as to class 3, by 10 cents; and as to class 4, by 2 cents, and as to class 5, by 31 cents.

Now, I put it to you that when you are talking of what the economic history of the country indicates that it would have been a little fairer, as you did on Page 138 --

I should not perhaps use the word "fairer" with you, Mr. Jefferson, because you always try to be fair -- but it would have been a little more in accord with the facts to use that comparison, as I have indicated it to you, speaking prior to 1939, rather than the comparison which dates from one or two years back.

THE CHAIRMAN: What about the possibility of getting the figures which prevailed in 1939?

MR. FRAWLEY: Yes. That should not be a difficult

matter at all. That can be done, and Mr. Jefferson can do it very quickly.

THE CHAIRMAN: Then we would have sound figures.

MR. FRAWLEY: Then they would be exact, yes.

Q. Now, Mr. Jefferson, I want to pass to something else.

The other day, as I recall your examination in chief -- and if you have Volume 77 it would be helpful -- at Page 15478 -- and it went on to Page 15481 -- but I can summarize quickly just what you said.

You said that on shipments moving from eastern Canada to Alberta, that a combination of the back-haul was the combination of the transcontinental rate to Vancouver plus the back-haul to Alberta, and that it was the maximum that could be charged.

A. It was the maximum which we did charge.

Q. Which you did charge?

A. Yes, sir.

Q. Is there a distinction? Perhaps we should clear that up?

A. No. It is the maximum that we do charge.

Q. It is the maximum which you do charge. But that invites this question: if you charge the full rate, and with the combination of the transcontinental rate plus the back-haul, that would be the proper legal rate, would it?

A. The rate in the tariff.

Q. That is right. It is the rate in the tariff.

A. But there is not much use in discussing it if we do not put it into practice.

Q. I am only looking for information now. I want to be sure that if you did charge the published tariff rate,

it is a perfectly legal rate.

A. It would be a tariff rate.

Q. And if I was charged the legal rate, the published rate, and was not given the combination of the transcontinental plus the back-haul then I would have no redress?

A. You can always ship to Vancouver and back.

Q. I know. But if I was charged the full published rate --

A. To Calgary, let us say?

Q. To Calgary?

A. Yes, sir.

Q. And if I wrote a letter to you and asked you to please see that I got the difference between that rate and the combination of the transcontinental rate plus the back-haul, would you be obliged to give it to me? That is all.

A. I would say that we are not that unreasonable. Yes, sir.

Q. You are not that unreasonable?

A. Yes, sir.

Q. You know what your practice is?

A. Yes.

Q. But you say that you do it, and you do draw a distinction between what you were required to do -- ?

A. Maybe under the law we could charge the full rate to Calgary.

Q. That is not a very profound point of law. That is not something you would approach general counsel about.

A. He would have to tell me whether I would have to charge the full rate to Calgary, and not permit the rate to Vancouver and back.

Q. And with your experience, have you always done that?

A. We do not do it.

THE CHAIRMAN: Q. You have never done it?

A. We do not do it. We give the man at Calgary the rate to Vancouver and back.

Q. You have always done it?

A. Yes, sir.

MR. FRAWLEY: Q. Is there not a mistake made sometimes? Suppose some rate clerk should make a mistake and charge the published rate?

A. Oh, we might even make a rate mistake in the rate charged from Ottawa to Toronto.

Q. That is right. But could you not imagine a case in which a rate clerk would, in error, charge the published rate.

A. He might.

Q. And in that event, what would happen, if the receiver applied to you?

A. We would make a refund.

Q. You would make a refund?

A. Yes.

Q. I take it that there have been cases in which it has been charged and which were adjusted afterwards?

A. I have no doubt. We are not infallible.

Q. Now, where is the regulation or order which requires--or, let me put it this way: is there any regulation of the Board of Transport Commissioners, or in the Railway Act, which requires you to charge the combination of the transcontinental rate plus the back-haul?

A. I do not know.

Q. You do know of none?

A. No, sir.

Q. There is something like that in the United States,

is there not?

A. I do not know that either.

THE CHAIRMAN: Is that the Spokane Rule which we have heard about?

MR. FRAWLEY: No, my lord.

THE CHAIRMAN: You say there is a rule?

MR. FRAWLEY: I mean a regulation of the Interstate Commerce Commission in respect to that matter, that you must, regardless of the published rate, only charge a combination of the back-haul.

MR. FRAWLEY: Q. Is there such a regulation of the Interstate Commerce Commission?

A. I do not know.

Q. You do not know of any?

A. No, sir.

Q. And there is no such rule in Canada?

A. Not that I know of.

Q. But your practice is to do it?

A. Yes, sir.

Q. And do you instruct your agents all over the system that that is what must be done?

A. We instruct our agents in Alberta.

Q. Yes?

A. That they must not charge more than the rate to Vancouver and back.

Q. Are those instructions issued? I do not want to be too particular about it, but are those instructions issued to the division freight offices, or to every agent at every station in Alberta?

A. They would be issued to the division and district freight offices, but not to every agent on the line.

Q. You say: just to the division freight offices?

A. Yes, sir.

Q. But there would be a good many stations in Alberta which would not have the tariff to calculate the trans-continental rate to Vancouver plus the back-haul?

A. Oh, no. All agents have the tariffs on file which apply from and to their station.

Q. That is right. So, the agent at Canmore, Alberta -- that is a good Canadian Pacific station west of Calgary about 60 miles?

A. Yes, sir.

Q. Would that agent at Canmore have the trans-continental rate tariff, No. 1-J?

A. He might not.

Q. But you are certainly the man who would know. Would you say that the agent at Canmore would have tariff No. 1-J there?

A. No, I do not think he would.

Q. And there would be a good many agents, like Canmore, who would not have that tariff 1-J?

A. If the tariff did not apply to and from his station, I would say he would not have that tariff.

Q. As a matter of fact, we would probably find that there were just a few stations in Alberta which had tariff 1-J on file?

A. All the division offices would have it.

Q. I mean, of the stations on the line, probably very few would have tariff 1-J?

A. That is probably so.

Q. So, if a man in Canmore brought in a car of canned goods from Toronto, of 24,000 pounds, he would pay $2.67?

A. I would think that the shipper or the consignee would know what the practice was, and he would not pay the full class rate to Canmore.

Q. Suppose he brings a 24,000 pound car of canned goods from Toronto, and the published rate on that is $2.67. Mr. Buckingham can correct me if that is not right. But you would assume that that would be right?

A. If that is the 5th class all rail rate from Toronto and Montreal rate points to Canmore, it would be correct.

Q. What is that tariff, is it 4-F?

A. On a 24,000 pound car?

Q. Isn't that tariff 4-F?

A. That would be 4-F, yes.

Q. Now, if he brought in a 60,000 pound car, he would still pay $2.67?

A. It all depends on the mathematics, whether $1.40 to Vancouver at seventy, plus the 5th class back on 160,000 pounds, made lower than the 5th class to Canmore at sixty.

Q. Who would figure out those mathematics?

A. I am sure the shipper or jobber dealing with the canned goods would figure it.

Q. But how about the agent, the man who is really picking up the money and charging the tariff rates provided?

A. The local agent at Canmore?

Q. Yes.

A. Oh, I would not place that responsibility on him.

Q. You say you would not place that responsibility on him?

A. He would probably ask the division freight agent at Calgary for instructions of some sort, and would get them.

Q. And why would he ask for instructions? Suppose the receiver of the freight knew as little about it as he did, as you tell me the local agent at Canmore knows about it, it is very little. And suppose these two men knew just as little about it as that. I suggest to you that he would pay the $2.67, even if he brought in a 70,000 pound car?

A. I do not know who would bring in a car of canned goods to Canmore.

Q. I was sure you would ask me that question. Let us suppose that the Canmore Coal Company might do just that. It has a pretty big operation there. So let us assume that the Canmore Coal Company would bring in a 70,000 pound car of canned goods. It would not be impossible?

A. I do not think any mine brings in canned goods. They would buy from the jobbers.

Q. You and I are getting off on the question of what mines do, and whether they eat canned goods?

A. All I want is to keep it practical.

Q. I want to see just how far this thing is automatic. You left the impression with me that it was just automatic.

A. I say it is, from a practical point of view. But if you are going to take an impractical illustration, you may feel somewhat differently about it.

Q. Look, Mr. Jefferson, perhaps I should get away altogether from Canmore. You say that is an impractical thing?

A.Yes, sir.

Q. Very well, then, how about Banff? In the summer time there are lots of canned goods brought into Banff?

A. I would say it was just as impractical there,

because all the canned goods received at Banff are bought through jobbers, and the jobbers know what the practice is.

Q. You could not imagine a 70,000 pound car of canned goods being brought into either Canmore or Banff?

A. And charged the 5th class rate?

Q. And charged the 5th class rate?

A. On a 70,000 pound car?

Q. Yes, on a 70,000 pound car, and charged $2.67 to Canmore?

A. No, sir!

Q. You say that it is out of the question in your experience?

A. Yes, because there are too many people who know what the practice is.

Q. Not at Canmore; you mean in the division freight office?

A. That is right.

Q. Your agent at Canmore --

A. Do not forget that the shipper is involved in it. He would know what the rate is.

Q. Why?

A. Is there any shipper of canned goods in eastern Canada who does not know?

Q. Northwestern Utilities is a large concern in Edmonton, is it not?

A. Yes, I have heard of it.

Q. It is the gas company. You must have heard of it.

A. Yes.

Q. Probably you have been heated by its gas in Edmonton?

A. No doubt.

Q. It supplies its gas to the whole of the city of

Edmonton. It is quite a big utility.

A. Yes, sir.

Q. And it brings in pipe to convey its gas from the source thereof and distribute it all over the city of Edmonton?

A. Oh, yes.

Q. And one of the people who supply those things is Paige-Hersey Tubes, in Welland, Ontario?

A. No doubt.

Q. Do you know there were instances where Northwestern Utilities had to make application for an adjustment because they were paying the published rate and not the trans-continental plus the back-haul?

A. You say they were charged?

Q. And paid.

A. That may be.

Q. They had to apply for an adjustment.

A. That may be.

Q. First of all, of course, I expect you will tell me that it was the other railway which did it.

I do not suppose you would deny something the Canadian National did?

A. Perhaps they should not have got the business.

Q. You mean by handling it in that way?

A. Yes, sir.

Q. That is right. I will put this on the record and you can check it: that there had to be an adjustment with the Northwestern Utilities in April, 1949, and that it was charged $1,426.79.

A. When was this?

Q. They were charged $1,426.79; and if they had been charged on the basis to Vancouver and back to Edmonton,

it would have been $1,390.76; so that they collected that difference, because the Canadian National did not refuse it, of $36.03.

A. There was a difference in the direct rate from Welland to Edmonton, according to this recital, and the rate to Vancouver and back to Edmonton, on 5th class --

Q. That is right, and they collected $36.03?

A. Yes, sir.

Q. And that occurred right in the city of Edmonton where these tariffs are right on file.

A. That may be; but he got his money back.

Q. That is right.

THE CHAIRMAN: Can you tell me what inference you are drawing from this? You are showing the possibility of mistakes being made?

MR. FRAWLEY: That is right.

Q. Have you a remedy to suggest how these things could not happen?

MR. FRAWLEY: I do not know. I want the situation made clear that at country points this is liable to go on every day; and these applications could be made for adjustment and the money would be paid back. There is no question but that they feel they are morally bound, if not otherwise, to rebate, whenever that sort of thing happened.

THE WITNESS: Not "rebate"; refund.

MR. FRAWLEY: Q. That is right. Refund, not rebate.

The incident, my lord, just highlights the fact that the goods can go from eastern Canada through Edmonton, over the mountains, then turn around and come back over the

mountains, back into Edmonton for less than they can go to Edmonton direct.

MR. EVANS: How do you figure that?

THE CHAIRMAN: We shall adjourn now until this afternoon.

--- At 1:00 p.m. the Commission adjourned until 2:45 today.

AFTERNOON SESSION

C. E. JEFFERSON, Recalled.

CROSS-EXAMINATION BY MR. FRAWLEY (CONTINUED)

Q. Mr. Jefferson, I think you are looking for something; that is why I did not begin asking you anything.

A. I was looking for those class rates again.

Q. Oh, yes, Page 56, I think.

A. No, I have it, Page 53 of the Appendix.

Q. That is right.

A. The comparison of the rates in the Exhibit from Toronto to Regina with Buffalo to Gillette, Wyoming; in 1939, October 1, 1939, the rates from Buffalo, in New York State, to Gillette, Wyoming, were higher than the rates from Toronto to Regina, with one exception, 5th class.

Q. We might put them in the record. It is only fair that my figures should be corrected.

A. Toronto to Regina on October 1, 1939, was $3.58.

THE CHAIRMAN: Q. Would you please repeat the names of the places, Toronto to where?

A. Regina.

Q. 1939 was what?

A. $3.58 1st class; $2.98 2nd class; $2.41 3rd class; $1.85 4th class, and $1.55 5th class.

MR. FRAWLEY:Q.That is right. I read those this morning. Those are the figures I think I gave. I just read the differences as I had them.

A. Yes.

Q. That is right, Mr. Jefferson. Now give us Buffalo to Gillette?

A. Buffalo to Gillette, 1st $3.60; 2nd class $3.06;

3rd class $2.52; 4th class $1.98; 5th class $1.35.

Q. Those were the rates on the 1st of October, 1935?

A. 1939.

Q. And the tariff reference is C.F.A. 491 D.?

A. I have the tariff reference. The United States tariff reference was agent Jones, IC.C. No.3243, Central Freight Association Tariff 491 C.

Q. You have given us Central Freight Association 491 D. on the table, and in 1939 it was 491 C.

A. That is right.

Q. That is really all we have to look at. We need not bother about agent Jones.

A. No, except I was giving you the I.C.C. reference; that is all.

Q. Now, Mr. Jefferson, I want to ask you about the rates on canned goods east-bound from Vancouver. I put it to you that the rate now from Vancouver to Toronto is $1.40.

A. Yes, sir, with I believe a 70,000 pound minimum.

Q. With a 70,000 pound minimum. That is tariff 1-J?

A. Well, I do not know that it would be 1-J.

THE CHAIRMAN: Would you repeat that for my sake? It is not on this page?

MR. FRAWLEY: Oh, no.

THE CHAIRMAN: What are the figures and the places?

MR. FRAWLEY: Vancouver to Toronto on canned goods $1.40 with a 70,000 pound car minimum.

Q. That rate is a low rate because of what you regard is effective water competition?

A. Yes, sir.

Q. Now, there is a rate from Vernon to Toronto on canned goods of $1.40 also, I put it to you.

THE CHAIRMAN: What is the name of the place?

MR. FRAWLEY: Vernon, British Columbia.

THE WITNESS: I do not know offhand.

MR. FRAWLEY: Perhaps that had better be checked because I am suggesting that it is the Vancouver rate.

THE CHAIRMAN: With the same pound minimum?

MR. FRAWLEY: I was going to ask about that.

THE WITNESS: Yes, sir, it is $1.40.

MR. FRAWLEY: Q. And is there the same minimum?

A. Yes, sir.

Q. It must be the same minimum?

A. Yes, sir.

Q. There is no carrier competition, Vernon to Toronto?

A. No what?

Q. No carrier competition, water competition?

A. Not from Vernon, no sir.

Q. Now then, we move east to the canning factory at Brooks, Alberta, and I put it to you that the rate on canned goods from Brooks to Toronto is $2.47, the tariff reference being C.F.A. 4F.

A. That may be; it is probably the 5th class rate.

Q. Well, it is the 5th class rate all rail, Brooks to Toronto, which your assistant was good enough to find for me.

A. Yes, sir.

Q. $2.47?

A. Yes, sir.

Q. At Brooks there is no carrier competition?

A. No, sir.

Q. But there is a canning factory at Brooks?

A. I believe so, a small one.

THE CHAIRMAN: Q. Pardon me a moment; you say the Brooks rate is a 5th class rate?

A. Yes.

Q. What are the other rates?

A. Special commodity rates. I find, Mr. Frawley, that we have a commodity rate on canned goods from Brooks, Alberta, to Toronto and Montreal of $1.82, minimum 40,000 pounds. That was before the 8 per cent increase. It would now be $1.97.

MR. FRAWLEY: Q. $1.97?

A. Yes, sir.

Q. So that the effective rate is not the 5th class rate of $2.47 but is a special commodity rate of $1.97, did you say?

A. $1.97.

Q. That is the situation is it?

A. Yes, sir.

Q. The rate, Vancouver to Toronto, where there is carrier competition is $1.40, and from Vernon, British Columbia, to Toronto, where there is no carrier competition but where canned goods are shipped to Toronto, the rate is $1.40, the Vancouver rate, and from Brooks to Toronto you say that, in recognition of the fact that there is a canning industry there, you have established a rate below the 5th class rate, and it is $1.97 now?

A. That is right.

Q. And that is long and short haul discrimination at Brooks, is it not?

A. As you term it, yes.

Q. And you term it, I suppose, a justified long and short haul discrimination?

A. Yes.

Q. And what is the justification?

A. What is the justification?

Q. Yes.

A. You have not competition there --

THE CHAIRMAN: Q. You have not what?

A. You have not the competition from Brooks that you have from Vancouver.

Q. We are talking ofVernon, are we not?

MR. FRAWLEY: Q. We are talking about discrimination at Brooks?

A. Yes, sir.

Q. Long and short haul discrimination at Brooks, and you say it is justified because you have not got the competition at Brooks that you have at Vernon?

A. Have not the same competition.

Q. That is what you mean?

A. Are you speaking of Vernon or Vancouver?

Q. I am talking of Vernon and Brooks. Vernon has the same rate to Toronto as Brooks has to Toronto --

THE CHAIRMAN: Vernon has a cheaper rate.

MR. FRAWLEY: Q. Vancouver has the same rate to Toronto as Vernon has?

A. Yes.

Q. You have equalized Vernon and Vancouver into Toronto?

A. Yes.

THE CHAIRMAN: The weight is higher though.

MR. FRAWLEY: Q. You have given Brooks a 40,000 pound minimum?

A. That is right.

Q. And that means that if 70,000 pouuds were being shipped, he would still pay $1.97?

A. That is right.

THE CHAIRMAN: In the case of Vernon it is 70,000 pounds.

MR. FRAWLEY: 70,000 pounds.

THE WITNESS: I will have to correct that figure, Mr. Frawley. I am told now that the current rate from Brooks to Toronto and Montreal is $2.09.

THE CHAIRMAN: Not $1.97?

A. No, sir, $2.09, minimum 40,000 pounds.

MR. FRAWLEY: Q. That is this special commodity rate?

A. Yes, sir.

Q. Which is the best rate available and which means that the 5th class rate is not used?

A. That is right, unless he had a smaller car.

Q. $2.09. Now then, the situation is that if a 70,000 pound car were being shipped from Vancouver to Toronto, the rate would be $1.40?

A. That is right.

Q. And if a 70,000 pound car were being shipped from Vernon to Toronto, the rate would be $1.40?

A. That is right.

Q. And if a 70,000 pound car were being shipped from Brooks --

THE CHAIRMAN: No, 40,000 pounds.

MR. FRAWLEY: I am putting it to him as 70,000 pounds to have the same shipment. If a 70,000 pound car were being shipped from Brooks to Toronto the rate would $2.09?

A. Yes, sir.

Q. Now, just getting back to where we were I asked you if that was long and short haul discrimination at Brooks and you said it was justifiable long and short haul

discrimination at Brooks?

A. Yes, sir.

Q. And the reason again was what?

A. Was the water competition from Vancouver.

Q. That is at Vancouver but as between Vernon and Brooks what is the justification?

A. Well, the only justification comparing Brooks with Vernon would be that you have not the same carrier competition from Vernon as you have from Vancouver because there would be the rail rate from Vernon to Vancouver to addto the water competitive rate from Vancouver.

THE CHAIRMAN: Q. You mean railway competitive this time?

A.Yes, sir - well, if you have a water competitive rate from Vancouver to Toronto made to meet water competition then the competition from Vernon would be water competition from Vancouver plus the charge for carriage from Vernon to Vancouver.

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MR. FRAWLEY: Yes, I can understand that, but you have not added - -

THE CHAIRMAN: You have no competition by rail, have you, between Vernon and Toronto?

A. Well, only the Canadian Pacific - Canadian National, that is all.

Q. Do they both go into Vernon?

A. Yes, sir.

MR. FRAWLEY: And the rates are the same?

A. Yes, sir.

Q. But you have not added anything to get the goods from Vernon down to Vancouver where they could avail themselves of the water competition?

A. No, sir, we have not.

Q. You have added nothing, you have given Vernon exactly the same rate as Vancouver?

A. That is right.

Q. I simply put it to you: why don't you give that same rate to Brooks?

A. I don't know that we have ever been asked for it.

Q. That is one reason. Now, is there any other reason, Mr. Jefferson?

A. Well, I don't know. I should have to decide the case on its merits when I received an application.

Q. Then you want to leave the impression with me, that if you got the right kind of a letter from the canner at Brooks, you might give him the Vancouver rate?

A. I don't know; I would want to see the letter first.

Q. Have you ever done it?

A. No, I don't know that I have ever been asked for it - not to my knowledge.

Q. Assuming you have never been asked, you do not feel that you have any responsibility to tell the man at Brooks (he may know already) but you do not feel you have any responsibility to tell the man at Brooks, that Vernon, which is a good many miles inland - - about how far in miles inland is Vernon from Vancouver?

A. Oh, off hand around three hundred odd.

Q. Well, that means that Vernon, 300 miles inland, has for some reason been given the Vancouver rate, but you have not told the man at Brooks, I suppose, that his competitor at Vernon gets the Vancouver rate of $1.40 and he pays $2.09?

THE CHAIRMAN: Pardon me, is Brooks likewise on the Canadian Pacific Railway?

MR. FRAWLEY: Yes, on the main line of the Canadian Pacific Railway. Well, in any event, without pressing it any further, Mr. Jefferson, there is market competition at Vernon, at Brooks, and at Vancouver, all into the Toronto market?

A. I do not know, Mr. Frawley, whether they ship the same kinds of canned goods from Brooks as from the Okanagan Valley or the Pacific Coast.

Q. Would that really deter you? Would you have to enquire into every single kind of canned goods that they ship from Brooks to see if they were different al all from the kind of canned goods shipped from Vernon?

A. It might be a factor in my decision with respect to market competition.

Q. Well, I am really interested to know really, why Vernon got that rate. I am just putting the question to you. Why should Vernon, three hundred miles inland, get the Vancouver rate?

A. I assume it is because they can the same commodities in Vernon or in the interior as they do on the Pacific Coast.

Q. So, if they can the same kind of fruits or vegetables, they put it up to you that they should have the Vancouver rate, and then you would find that that was a good enough reason to give it to them?

A. I am assuming that that is what we did in that instance.

Q. Does it run to other industries? Do the lumber manufacturers in the interior get the same rate as the coast?

A. They get a lower rate.

Q. A lower rate than the coast to the east?

A. Yes, sir.

Q. Does it run to any other kind of commodities?

A. I don't know; it all depends what the commodity is.

Q. But at Brooks there is market competition to Toronto?

A. Maybe, but it may not be with the canned goods from British Columbia; it may be some canned goods from somewhere else.

Q. I am not sure if it is true or not and if it

were not true - suppose they were canning only peas and corn at Brooks, and they were canning tomatoes, say, at Vernon, Would that be enough to justify the difference?

A. You are marketing an entirely different commodity.

Q. That is what I mean. I can assure you I am merely informing myself.

A. Canned peas are not in competition with canned tomatoes.

Q. That is the kind of test you would apply?

A. Then, don't forget from British Columbia you have soft fruits too.

Q. In cans you mean?

A. Oh, yes.

Q. Well, I don't know whether they are canning any fruit in Brooks. Maybe they are; that is in an irrigation belt. Maybe they are.

A. My understanding is, that canned goods from Brooks are largely canned peas and beans.

Q. And you are not able to say whether there are any of those two things canned at Vernon and shipped to Toronto?

A. No, sir, not to my knowledge.

Q. I just want to understand what your feeling about it is, Mr. Jefferson. If it be a fact, that there are also canned peas and beans packed at Vernon, would you think then that there was no justification for withholding that rate from Brooks?

A. We might give them the same rate, but I am not making any decision on it now.

Q. I do not own the canning factory at Brooks; I am just trying to find out how you feel about it, Mr. Jefferson, you would feel that there was less justification for the discrimination than if they were not canning the same kind of things at all?

A. I would, yes.

Q THE CHAIRMAN: Why is there a difference in the requirements as to weight, 40,000 lbs. and 7 0,000 lbs.?

A. The difference in the requirements as to weight, is this, that when you have to establish a competitive rate from the Pacific Coast to Montreal and Toronto to meet a competitive condition, if you had a rate of $1.40 with a minimum of 40,000 lbs., the revenue might not be compensatory, but if you could get an average loading of 70,000 lbs. or better, then it makes the traffic more compensatory.

Q. Why then do you fix 40,000 lbs. at Brooks instead of 70,000 lbs. at the lesser rates?

A. I suppose the reason for the 40,000 lbs. at Brooks, is that the shipper at Brooks wanted to load his cars and be able to market his product.

MR. FRAWLEY: Whether he ships 40,000 lbs. or 70,000 lbs. he has got to try to get into Toronto at $2.09 because Vernon, about 300 or 400 miles further west has more than 60¢ differential against him. That is how you have left the man at Brooks, isn't it?

A. If he is marketing the same products.

Q. Let us assume that he is marketing the same product?

A. I don't think he is.

Q. That would be enough distinction for you - you would have no compunction in charging him $2.09 as long as you were satisfied he was not canning the same identical vegetables and fruits that were packed at Vernon?

A. I think that would be a reasonable justification, yes.

Q. That, in your opinion, would be a reasonable justification to violate the long-and-short-haul rule there at Brooks?

A. Yes, sir.

THE CHAIRMAN: If the man at Brooks were prepared to undertake 70,000 lbs. shipments, would that have a tendency to give him a lower rate?

A. It might, yes, sir.

Q. Would it have such a tendency?

A. If he would load 70,000 lbs. per car and when he was shipping the same commodity.

Q. I do not know what difference you see between those commodities that would increase freight rates?

A. I am not speaking of the difference between the commodity with respect to the compensatory nature of the rate, or anything of that sort - merely in the competition as to markets. If the man at Brooks is canning a commodity that is not canned in the Okanagan Valley or at Vancouver, then it does not make any difference if his rate is higher.

Q. He has no competition?

A. No, sir.

Q. Well, still if he were to accept 70,000 lbs. shipments, that in itself would tend to a lower rate, would it?

A. Not if it was not the same commodity, no, sir, because if he could afford to pay $2.09 for 40,000 lbs. - -

Q. Then you give a lower rate to the man in Vernon because he has to meet competition inthe Toronto market?

A. Yes, sir.

Q. What competition have you in mind at Vancouver?

A. Water competition through the Panama Canal.

Q. The man at Vernon?

A. Not the man at Vernon, no. As I said before, the man at Vernon has the same competition as the man at Vancouver, except that he has to pay rail rate from Vernon to Vancouver. The only justification I can see for applying the same rate from the interior of British Columbia as from the coast on canned goods, is because he is marketing the same product in Eastern Canada as the Vancouver man is marketing.

Q. And as the competitors by water are marketing by way of Vancouver?

A. Yes, sir.

Q. And Vernon?

A. From Vancouver via the Panama Canal.

Q. But how far does that competition extend back east-ward again on the way to Toronto? It extended to Vernon anyway, I see?

A. We only extend it to the Okanagan Valley, Penticton, Kelowna, Ashcroft, Kamloops and places like that.

Q. You think that those points in the territory you have just described require protection against water competition from the Pacific?

A. Yes, sir; in other words, it is a case of being better for the railways, you might say, to be sure of the business from the interior at $1.40 rather than to be only sure of part of it from the Pacific Coast.

Q. But I was trying to discover how far you extend the range of that competitive feature? You do extend it 300 miles anyway?

A. It is a voluntary extension, I admit.

MR. FRAWLEY: What has the water competition at Vancouver got to do with the man at Vernon? He is 300 miles inland.

A. I have said the only competition the Vernon man has comparable with the Vancouver man is the addition of the rate from Vernon to Vancouver.

Q. That is true, but that does not protect the Vancouver man. You have eliminated that distance entirely between Vernon and Vancouver?

A. It is not the Vancouver man we want to protect; it is the interior man.

Q. The Vernon man is shipping to Toronto, and he is away from water competition. What right has he got to claim that Pacific Coast rate at all?

A. He has no right to claim it whatever. As I said it is a voluntary extension.

Q. He has no more right to claim it really, than the man at Brooks?

A. That may be.

Q. Or the vegetable growing industry around Taber, Magrath or Lethbridge?

A. But you are not marketing the same commodity.

Q. Now, you make an assortment, you put the different products in pigeon holes and then you see if they are not competing one with the other, and then you say "We are justified in practising long-and-short-haul discrimination"?

A. The Brooks man is not hurt.

Q. Well, that I have heard before. Mr. Jefferson, let me just put this to you. There is not any doubt about it from what you have been saying the last ten minutes or so, that you do regard market competition as a justification for practising long-and-short-haul discrimination?

A. If it is in our interests to do so.

Q. Now, I want to take you to Montreal to Vancouver - -

THE CHAIRMAN: Pardon me, If this man in Brooks felt that he had a grievance, he would have to establish discrimination against him?

MR. FRAWLEY: Well, the discrimination would be established because he pays more.

THE CHAIRMAN: But he would have to show unjust discrimination?

MR. FRAWLEY: Not under Section 314.5, sir. Mr. Jefferson feels quite confident that when he established the market competition that he would be

excluded from the violation.

THE CHAIRMAN: That is what I say; what would be the answer?

MR. FRAWLEY: The answer would be that there is competition - market competition; not carrier competition. That is different, but that there would be market competition and he is justified in charging the Brooks man more than the Vernon man.

THE CHAIRMAN: Well, the point of that is this, that the Act seems, just as it is now, to provide for those cases?

MR. FRAWLEY: Section 314.5?

THE CHAIRMAN: The whole of 314. They provide for the case of anybody who is paying a high rate and feels that there is an unjust discrimination against him. He can go to the Board then.

MR. FRAWLEY: That is right, he can go to the Board if he finds - -

THE CHAIRMAN: And then, the railway, I suppose, part of the case would be that they would show why the rate is high?

MR. FRAWLEY: Under the Section they only have to show one thing, that there was competition.

THE CHAIRMAN: And then it is for the Board to decide?

MR. FRAWLEY: That is right, sir.

THE CHAIRMAN: What are you leading to? What change do you think oug ht to be made in that procedure?

MR. FRAWLEY: I am just assuming at the moment, sir, that market competition as well as carrier competition justifies the departure from the long-and-short-haul rule in the minds of the railway.

Now, another instance, Mr. Jefferson, is where you have a rate from Montreal to Vancouver, a water competitive rate, and you feel that that rate is no lower than is required to meet the water competition, I suppose?

A. That is right.

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THE CHAIRMAN: Pardon me; at the expense of appearing to take up too much time:

Q. What competition would you fear, you as a railway, if you charged a higher rate to the Vernon people?

A. What competition would I fear?

Q. Yes.

A. I would not fear any that I know of, unless the rail rate or the transportation charge -- it might be a truck rate -- from Vernon to Vancouver, plus the water rate---

Q. Keeping your eye on the Toronto market, the question of shipping goods from Vernon to Toronto?

A. Yes, sir.

Q. And from Brooks to Toronto?

A. Yes, sir.

Q. And you charge more for the nearer point than for the farther one?

A. Yes, sir.

Q. Then you say you justify that by the reason of competition?

A. Yes, sir.

Q. What competition would you incur if you raised the rate from Vernon to Toronto?

A. I don't know that you would incur any transportation competition. You might find that the rate from Vernon to Vancouver plus the water rate from Vancouver to Toronto was lower than the fifth class rail rate from Vernon to Toronto.

MR EVANS: I just want to clear up something that appears to be doubtful. It is clear on the decisions of the Board that in order to show unjust discrimination -- and that is what we are talking about, unjust discrimination under section 314 -- there has to be actual detriment; the commodities have to be in competition in a common market. Now, the

point about this is that if there is a different commodity at Brooks than there is at Vernon, they are not in competition, and therefore there is no unjust discrimination.

COMMISSIONER ANGUS: Q. Mr. Jefferson, if you did not give the lower rate to the man at Vernon you might extinguish the industry in Vernon and kill the goose that laid the golden egg?

A. You might.

Q. Is that what you mean by market competition as between---

A. I won't go so far perhaps as to say you extinguish the industry, but you might force that industry into the movement of its product to short-haul points, where we want the traffic from Vernon to long-haul points like Toronto and Montreal.

THE CHAIRMAN: Yes, you see, Mr. Frawley, that subsection 5 is based on the goods being of a like description.

MR FRAWLEY: Oh, yes.

THE CHAIRMAN: Now, as soon as the railway establishes that these goods are not of like description, then the section does not apply.

MR FRAWLEY: I appreciate the railway company's position.

THE CHAIRMAN: It is no longer then a question of competition; it is as Mr. Jefferson explains. He thinks the lower rate tends to keep this industry going at Vernon, and therefore furnishing freight to his railway.

Q. Mr. Jefferson, isn't that what you say? Your lower rate is designed to keep the industry going at Vernon, and thereby to give freight to your railway?

A. That is right.

Q. Is that it?

A. Assure ourselves of long-haul traffic.

Q. Now, if in reality, then, these goods are not of like description, the subsection does not seem to apply at all.

MR FRAWLEY: No. You see, sir, what bothers me is, are we getting down to the---

THE CHAIRMAN: Should there be some change in the law? Perhaps you are saying there ought to be.

MR FRAWLEY: Of course, I have a completely new concept of a statute to deal with long and short haul discrimination.

THE CHAIRMAN: Then it will be a question of argument later on whether or not---

MR FRAWLEY: That is right; but I do want to say a word -- perhaps I should not interrupt my cross-examination. If one is getting down to the fine distinction between the beans and the peas and the corn that Mr. Jefferson now suggests, it seems to me that the thing would be endless and completely unworkable, and my submission, just in passing, is that that is not what the words "like description of goods" mean at all. You simply go into the tariff and you find canned goods, and canned goods are canned goods, whether it is from Brooks or from Vernon; but that is a matter for argument.

MR EVANS: No, it is not. The Board has given clear decisions on it.

MR FRAWLEY: All right; my friend has all his decisions, and we will hear them later, I take it.

Q. But, Mr. Jefferson, suppose that the truck rate from Vernon to Vancouver or Vancouver to Vernon was only 25¢ -- I don't know what it is; you say it is about 300 miles; what would you think it probably would be? -- because I have

not much---

A. I don't know; but let us assume it is 25¢.

Q. You think that is not too cheap? Would 50¢ be just as -- what is your rate between Calgary and Edmonton? It is now about 70¢, is it not?

A. On what?

Q. On the first four classes?

A. Oh, I don't know.

Q. Your truck competitive rate Calgary to Edmonton was 39¢ for years and years, and it has gone up to 21, by 21 and by 8, I think?

A. That is the all-commodity rate.

Q. The all-commodity rate, yes. I say 50¢; I suggest to you that probably fifty cents would not be an unfair truck competitive rate to think of between Vernon and Vancouver?

A. It might be; I do not know.

Q. Now, if it were 50¢ -- and I haven't any idea what it is -- if it were 50¢, why couldn't you at least charge the 50¢ more? Why do you have to completely equalize it? The goods cannot get down from Vernon to Vancouver by magic.

A. Quite right. We could put in our tariff any rate we wanted to, subject to complaint to the Board, but if the Vancouver man is shipping his freight some by rail and some by water, if we give the rate to the Okanagan we are assured of it all by rail. And don't forget this, that the water competitive rate from Vancouver to Montreal and Toronto by rail is higher than the actual water cost.

Q. All right, now. Mr. Jefferson, if I may say so with respect, you are just getting off the point a little bit as far as I am concerned. Your fear, your real fear, is that the man from Vernon may ship his goods to Vancouver and then put it in a boat to Toronto?

A. That is not my fear.

Q. That is not your fear at all?

A. I said it was not.

Q. I do not understand your answer to Professor Angus, that you were afraid you might extinguish the industry.

A. That is all right.

Q. Isn't that why you would fear the extinction of the industry?

A. No. What I said was this: I said to Dr. Angus that I did not fear that we would extinguish the industry, but we might curtail the industry at Vernon from shipping to Montreal and Toronto long-haul traffic, where we could get all the business, and he would market his products in the near-by markets, where we would get a short haul.

Q. I can understand you giving him something, giving him Vancouver $1.40 plus something; what I findimpossible to understand is, you give him the straight Vancouver rate, $1.40, and you assume that there is no transportation charge between Vancouver and Vernon?

A. That is right.

Q. Now, why are you not as solicitous about the infant industry over at Brooks which is trying to can vegetables and ship wherever they can?

A. As I have told you, there might not be the necessity for the same rate from Brooks as from the interior of British Columbia.

Q. And this necessity just is measured now how?

A. I told you that it was measured in the way I was discussing it with you -- whether or not the Okanagan was shipping the same commodity that Brooks was shipping.

Q. All right. Now then, Montreal to Vancouver has a water competitive rate, but you give a place like

Aylmer, up in western Ontario, the same rate?

A. Yes, sir.

Q. And that also is on a water competitive basis?

A. Yes, sir. We do that with respect to all eastbound and westbound commodities, no matter whether they are going to or from British Columbia or to or from Alberta or anywhere else.

Q. I understand that; but I am going to ask you now, what you are giving the man at Aylmer is a rate which is based on the fear of the traffic being taken away by the water, by the boats?

A. Yes, sir.

Q. Now, at Aylmer to get to the ocean-going competition -- which would be at Montreal, wouldn't it?

A. Yes, sir.

Q. Now, to get there---

A. It might be, or it might be in the summertime by Canada Steamship Lines to Montreal and then water, ocean lines from Montreal to Vancouver.

Q. Yes, but the Canada Steamship Lines do not run into Aylmer, do they? Aylmer is off the lake some miles?

A. Maybe, but they truck to the lake.

Q. That is what I mean. So that the Aylmer man to get to the ocean-going vessels at Montreal would have to truck to the lake, then by lake and river steamer down to Montreal, before he would get to the ocean-going competition?

A. But the Canada Steamship Lines absorb the trucking charge.

Q. How about the rate, then? Assume then that he is right on the wharf at Erieau or someplace there on Lake Erie?

A. Yes , sir.

Q. But he still has to get down to Montreal to get into the ocean-going vessels?

A. And some has gone to Montreal by rail or water and gone by ocean liners to Vancouver.

Q. All right; but the fact is, though, as far as your rate is concerned, you give him at Aylmer the same $1.40 that you give at Montreal?

A. As I said before, don't overlook the fact---

Q. That is so, isn't it?

A. Quite, but don't overlook the fact that the $1.40 from Montreal is more than the water cost from Montreal.

Q. I am just talking about the rate at the moment. You do give the man at Montreal a rate of $1.40?

A. That is right.

Q. And you give the man as far away as the farthest place in western Ontario that you can think of, around Chatham, Aylmer, St.Thomas -- any of those places -- you give him the same $1.40 rate?

A. That is right.

Q. Therefore you are treating him as though he was alongside the ocean-going vessel in Montreal?

A. That is right. I suppose we could not get the business from Montreal proper to Vancouver at $1.40.

Q. Now, I suggest to you, Mr. Jefferson, that Aylmer and Montreal are equalized due to market competition in Vancouver?

A. To market---

Q. Market competition in Vancouver. They are both shipping into Vancouver?

A. That is right.

Q. Montreal and Aylmer?

A. Yes, sir.

Q. So that really it is due to market competition

that they are equalized at $1.40?

A. You might argue that, but that is not the whole answer.

THE CHAIRMAN: Market competition between whom?

MR FRAWLEY: Between Aylmer and Montreal in Vancouver.

Q. That is right, isn't it?

A. What you are saying is that we give the same $1.40 rate if Clark shipped a car of canned beans from Montreal to Vancouver as we would charge a canner up in Ontario for shipping a car of canned pork and beans.

Q. Yes. Well, Clark, that is a good example -- Clark in Montreal and Heinz in Leamington?

A. Yes, sir.

Q. Shipping pork and beans to Vancouver. You give them the same rate, although the canned beans at Leamington would have to go by truck to the lake and then down by lake and river steamer to Montreal to get the $1.40 rate at Montreal?

A. I think Leamington is on the lake, but that is all right.

Q. All right; then it would not have any trouble. That is the situation?

A. Yes, sir.

Q. Now, the rate from Aylmer to Calgary is higher than the rate from Aylmer to Vancouver?

A. Oh, yes; so is Montreal to Calgary.

Q. That is the gospel we are preaching, isn't it -- always higher?

A. So is Montreal to Calgary.

Q. So is Montreal?

A. Yes, sir.

Q. Therefore it seems clear, then, Mr. Jefferson,

that there is long and short haul discrimination at Calgary which is due in part at least to market competition in Vancouver?

A. There is no market competition as between Calgary and Vancouver.

Q. I am putting it to you that because of the fact that you assume that Aylmer and Leamington are alongside the vessel in Montreal---

A. Yes, but, Mr. Frawley, just because there may be market competition from originating or producing point point of view, it does not follow that there is market competition from a destination point of view.

Q. No, but look, Mr. Jefferson -- perhaps I am not making myself clear. You told me that the equalizing rate Aylmer to Vancouver was due in part at least to market competition; we had that a moment ago.

A. I did not tell you; you told me.

Q. Oh, but you agreed with me?

A. Not necessarily.

Q. Well, do we go over all that again? Do you not agree that the competition with Aylmer and Toronto, being in competition one with the other, or, as you said, Clark's pork and beans factory in Montreal with Heinz pork and beans factory in Leamington, are shipping into the same market in Vancouver?

A. I am going to answer you this way, that I think it is in the interest of everybody in the east and everybody in the west, whether the prairie provinces or British Columbia, that we have a blanket rate route from Montreal to Windsor.

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Q. All right, now. I can assure you that that is not the first time I have heard that.

Let us take it that Aylmer and Montreal are shipping into Vancouver or Leamington and Montreal are shipping into Montreal with the same commodities that you have given me in your own instance?

A. That is right.

Q. And I put it to you that that fact has something to do with the reason why you equalize Leamington with Montreal, and you would disagree with that?

A. No doubt the effect is in the general blanket scheme of rates between all shipping points in Ontario and Quebec.

Q. It is due to what you regard as a market situation?

A. That is right.

Q. THE CHAIRMAN: Q. In this case, you put, is it not a question between the two shippers, the one from Montreal and the other from Leamington or Aylmer, or wherever it is? If they both ship by rail to Vancouver and pay the same rate, then the nearer man is paying more than he ought to pay, at first sight?

MR. FRAWLEY: Or the far-away man is paying less.

THE CHAIRMAN: It seems to me that is where you get into the question of the market: here you have two men aiming at the same market in Vancouver, one, who is in Montreal, and the other, who is at Aylmer.

The Aylmer man could say: why should I pay just as much as my competitor in Montreal when I am nearer?

MR. FRAWLEY: Q. He may be nearer and he could get it there for less if he were allowed to use the United States railroads. That is another aspect of the matter altogether.

It seems to me that Mr. Jefferson has agreed with me that there is an element of market competition in the fact that Aylmer and Leamington get the same rate as Montreal.

MR. FRAWLEY: Q. Assume , then that the rate from Aylmer to Montreal is due in part to a market competition competitive situation.

A. Market or water?

Q. No, market competitive.

THE CHAIRMAN: Perhaps Mr. Jefferson sees it, but I do not.

MR. FRAWLEY: You were telling me the reason for the existence of the group blanket in central Canada?

A. Yes, sir.

Q. And you told me that it was to equalize those people in the market wherever they are shipping from?

A. That is right.

Q. Would you say there is equalized shipping to the Maritimes?

A. No.

Q. Would that apply to Western Canada only?

A. Everything Fort William and west.

Q. They do not apply when going down to the Maritimes?

A. No, sir.

Q. You have other arrangements there?

A. Yes, sir.

Q. You have water competitive rates?

A. No. I am speaking of rate making.

Q. You told me that the rate group was to protect market competition, as far as central Canada was concerned in seeking markets in the west?

A. That is right.

Q. I think that is as good a way to put it as it can be put.

Now, the rate from Aylmer to Calgary is higher than the rate from Aylmer to Vancouver?

A. Yes, sir.

Q. And that is long and short haul discrimination as I see it?

A. That is right.

Q. You say again that it is justified long and short haul discrimination?

A. Yes, and I say there is no market competition in the marketing of canned goods in Calgary as compared with Vancouver.

.Q. Will you tell me that again. You say there is no market competition in marketing canned goods in Calgary?

A. As compared with Vancouver.

Q. Well, if Heinz and Clark were both shipping into Calgary, there you have market competition.

A. Surely, but they both have the same rate. But they do not have the same rate to Vancouver.

Q. They do not have the same rate to Vancouver?

A. They do not have to have the same rate from Vancouver to Calgary.

Q. Long and short haul discrimination at Calgary is a fact, is it not?

A. Yes, sir.

Q. And that discrimination is due, in part at least, to the factor of market competition in the east?

A. No.

THE CHAIRMAN: Where?

MR. FRAWLEY: Between Aylmer and Montreal.

THE WITNESS: It has nothing to do with it at all.

THE CHAIRMAN: Q. You are back to the Montreal to Vancouver being low because of water competition. Isn't that right?

A. That is right.

Q. Is it not carrier competition? Is there not a tendency throughout to confuse market competition with carrier competition? Isn't that so?

MR. FRAWLEY: No, my lord.

THE CHAIRMAN: Are not the rates you are now discussing justified by Mr. Jefferson by water competition?

MR. FRAWLEY: From Montreal?

THE CHAIRMAN: Or from another point available to water transit?

MR. FRAWLEY: But without any cost. The rate from Aylmer to Vancouver is $1.40, and the rate from Montreal to Vancouver is $1.40; and let us assume that the rate from Montreal to Vancouver is fair and reasonable.

THE CHAIRMAN: On account of water competition?

MR. FRAWLEY: Yes, sir, because the vessels are right along side the dock at Montreal.

THE CHAIRMAN: That would be an answer to the Aylmer man who might protest.

MR. FRAWLEY: Yes, and I suggest that the Aylmer man can get his goods to Montreal and into ocean going vessels for nothing. So I suggest to Mr. Jefferson that he should charge a rate from Aylmer to Montreal and then charge the $1.40 from Montreal to Vancouver, where the ocean going vessels are.

THE CHAIRMAN: Why should he? The Aylmer man ships by all rail?

MR. FRAWLEY: Let us say it is Montreal.

THE CHAIRMAN: But the Aylmer man is not in

the competitive position that the Montreal man is.

MR. FRAWLEY: He is placed in precisely the same competitive position by that same $1.40 rate. That is my point in a nutshell.

THE CHAIRMAN: Why is he placed in the same position? How could he get a better rate? By what other method of shipping could he get a better rate than $1.40?

MR. FRAWLEY: He should not have $1.40. He should have $1.40 plus a rate to get to the $1.40 rate at Montreal.

THE CHAIRMAN: But he is nearer to Vancouver than he is to Montreal.

MR. FRAWLEY: He is nearer geographically; but it will be demonstrated by an Exhibit which I have filed that he is completely barred from proceeding that way.

THE CHAIRMAN: Or where he is further away, you are discriminating against the man because you are charging him as much to ship his goods to Vancouver as you charged the Montreal man; and the answer is: we are justified in charging the Montreal man less because there there is water competition existing.

MR. FRAWLEY: That is right. If they said that, that is exactly right.

THE CHAIRMAN: That would be the application of sub-section 5.

MR. FRALWLEY: If they said that, there would be some reason in the structure. But that is not what they say. They give him the same rate.

THE CHAIRMAN: Well, what does Mr. Jefferson say?

Q. What would you say, Mr. Jefferson, if an Aylmer man complained that you charged him as much as the Montreal man?

A. We are charging him the same.

Q. What do you tell him when he complains?

A. He does not complain.

Q. Well, if he should complain?

A. Well, if he did complain, we would say we have one rate group or rate from Montreal to Windsor on goods going to Western Canada.

Q. And why?

A. Why?

Q. Is it not to meet this water competition?

A. Oh no.

Q. I thought you were telling us all along that the Montreal man has a water rate?

A. He has, but Mr. Frawley overlooked it.

Q. You said the Montreal man has the choice of a water route?

A. Yes sir.

Q. Therefore you have that water competition?

A. That is right.

Q. And that is why you give him a lower rate to Vancouver?

A. Yes, but we extend that Montreal rate to the party shipping canned goods from Toronto, Hamilton, Aylmer, Leamington, Windsor or Chatham. Mr. Frawley overlooks the fact that if we made a water competitive rate, the rate would be, would have to be lower than $1.40.

MR. FRAWLEY: So you make it to meet competition from Aylmer, St. Thomas, Chatham, and all over central Canada?

A. We make a water competitive rate from Ontario and Quebec to Vancouver on canned goods which will capture for us a good share of the canned goods business moving to the Pacific coast in competition with water rates from all shipping points.

THE CHAIRMAN: There you are. That is carrier competition.

MR. FRAWLEY: That is carrier competition.

Q. For the purposes of rate-making, you assumed that the whole of Ontario and part of Quebec are right adjacent to the Ocean going vessels in Montreal?

A. No sir.

Q. Why not?

A. If we assume that they were right at Montreal, this rate would be lower than $1.40.

Q. Why?

A. Because if we designed a competitive rate from Montreal to Vancouver to meet only water competition to Montreal, the rate would be lower than $1.40.

Q. You have shipped some goods manufactured in Montreal by rail -- I do not mean in February of this year -- and you are held at $1.40 now?

A. Not all of it. We are not hauling it all from Toronto. Campbell's soups are shipping to Vancouver, or they were before the navigation closed, by Canada Steamship Lines to Montreal and then by ocean lines to Vancouver. We are getting some of it but not all of it.

Q. You are getting some of it at $1.40, certainly?

A. Certainly. We would not make the $1.40 rate if were not assured of getting something.

COMMISSIONER ANGUS: You cannot go below $1.40 and still be compensatory?

A. Not entirely. The rate on canned goods, the water competitive rate on canned goods to the Pacific coast was made in conference with the shippers in Quebec and Ontario, and when I say Quebec I mean Montreal and points around Montreal, Toronto, Hamilton, Chatham, Leamington, Aylmer and so on. And after several meetings it was agreed with the shippers that we could hold some of the

traffic for the railway if we agreed to $1.40 for 70,000 pounds, and if we did not, we could not expect to hold any of it.

COMMISSIONER INNIS: When was this?

THE CHAIRMAN: If you did not, you could not expect to hold any of it?

A. That is right.

Q. Because it would all go by water?

A. That is right.

COMMISSIONER INNIS: When was this done?

A. This was done last summer.

Q. But the arrangement of the grouping was earlier than that?

A. That was years ago; the blanket group, that would be back early in 1910, perhaps.

Q. Before the Panama Canal?

A. Oh, yes, sir.

COMMISSIONER ANGUS: Does that mean you keep alive the blanket group which existed for one purpose, even when you were applying it to another group, to competition with the Panama Canal?

A. Yes sir. The blanket group from Montreal to Windsor was in existence before the Panama Canal.

Another reason for the blanket group from Montreal to Windsor is this: If you look at the geography and the routes of the Canadian railways, we go from Montreal to North Bay, to Sudbury, west to Fort William; and we also go from Windsor and Toronto westward up to Fort William. The two distances are approximately the same.

COMMISSIONER INNIS: It might be earlier than 1910?

A. Oh yes, it might be.

Q. You do not know?

A. I will say it was as early as that.

Last summer when we were increasing the Transcontinental rates, we got the canned goods rate from Montreal to Vancouver up as high as $1.69, I think.

MR. FRAWLEY: What do you mean when you say you "got it up"?

A. By increasing it, by publishing a tariff increasing the rate.

Q. Yes?

A. We increased it as high as $1.69; and the canners said that if we left it at $1.69 we would not get any of the canned goods to the coast. So we had a meeting with them and we finally reached an agreement.

Q. Talking about this blanket group, Sudbury gets the same rate as Montreal and Windsor?

A. That is right.

Q. On the traffic of goods through Sudbury from Windsor and from Montreal?

A. That is right.

Q. In other words, another way of putting it is: You treat everything as though it originated at Sudbury, and so you carry it for nothing from Montreal to Sudbury, and from Windsor to Sudbury?

A. Why not say from Montreal to Windsor?

Q. I would rather put it my way?

A. Well, I would rather put it my way.

Q. Well, I shall put it my way and you can put it yours.

(Page 16010 follows)

THE CHAIRMAN: Mr. Frawley, so we will know where we are at, what is your objection to all this now that you have heard the reasons given? Apparently the parties at different points in the east are all happy about it.

MR. FRAWLEY: I have an objection to rate grouping as such.

THE CHAIRMAN: Can you back up the criticism of the system which makes it dearer to bring goods to Calgary than to Vancouver?

MR. FRAWLEY: I am in this part of my cross-examination. I seem to be taking a long time with one point, the point simply being that long and short haul discrimination is practiced owing not only to carrier competition but market competition, but that is the point I am making. Then when you ask me what I object to in this blanket group I will call Mr. Jefferson's attention, for the information of the Commissioners, to the fact that in southern Alberta there are a group of canning factories that are only a few miles distant, Taber,Magrath and Lethbridge. Isn't that right?

THE WITNESS: yes.

MR. FRAWLEY: Q. They are all on your railway?

A. Yes.

Q. No other railway having access to that area?

A. Yes.

Q. And they are shipping to Winnipeg and other parts of Alberta, trying to ship into Vancouver, and so on?

A.They are not in a blanket rate group, if that is what you mean. One may be higher than the other going east or north, and one may be lower than the other going west or south.

Q. The fact is you have not appplied the blanket shipping zone technique to the canning industry in southern

Alberta?

A. Haven't seen any necessity for it.

Q. And until you see a necessity for it it just does not be? That is a fair inference?

A. Somebody has got to decide.

Q. And at the moment it is the railways that decide these things?

A. That is right.

Q. I only want to ask you one thing about the rate on salt.

THE CHAIRMAN: The rate on what?

MR. FRAWLEY: Salt.

Q. Would you mind looking at volume 61 and turning to page 11850?

A. 11850?

Q. Yes. There is a table of changes in trans-continental competitive rates from April 6, 1942 to August 4, 1948. Will you just look at the rate on salt there -- it is 11852, Mr. Jefferson. The rate on salt from five origins in Ontario, Courtright, Goderich, Kincardine, Sarnia and Sandwich - the old rate was $1.48 with a minimum of 36,000 pounds and the new rate effective December 9, 1942, was 75 cents with a minimumof 70,000 pounds?

A. That was in 1942?

Q. Yes, December 9, 1942.

A. Yes, sir.

Q. There was no water competition there because it was during the period of the war when no commercial shipping was permitted through the Panama Canal. That is right?

A. Oh, I don't know.

Q. Well then, I will put it to you. Was there any water competition in December, 1942 through the Panama Canal, because all my instructions are to the contrary?

A. Maybe not from Montreal.

Q. That is right.

A. There may have been no service from Montreal to Vancouver.

Q. I do not think there was any service.

A. That may be.

Q. I just put the question to you, why was that rate reduced?

A. I will be glad to tell you tomorrow morning but I cannot tell you this afternoon.

Q. Now, will you look at volume 68, page 14055. You are speaking there of the early tariffs in effect in 1910 on westbound commodity rates?

A. Yes, sir.

Q. I have one question to ask you, Mr. Jefferson. Can you tell me when the first trans-continental competitive commodity tariff was published to which the Canadian railways were a party or which they themselves published?

A. No, sir, I cannot.

Q. That would take a good deal of research. I thought perhaps you might have had that information.

A. We went back as far as we could and found the tariffs that I gave reference to in my evidence at page 14055. That is transcontinental freight bureau tariff No. 5-F, effective April 1, 1910, and transcontinental tariff 5-G effective August 6, 1913. We could not find in our records or in the records of the Canadian Freight Association any tariffs prior to that time. It was not because there were not any because if you look at tariff 5-F you will find it cancels something, but we could not trace it back any further because the tariffs were destroyed.

Q. That is all I can do about that. Mr. Jefferson, have you got Part I of your presentation there in front of you?

A. Yes, sir.

Q. I want to read you a paragraph about the middle of Page 90.

"The transcontinental commodity rates from eastern Canada to British Columbia coast points were established to permit the railways to meet competition actual or potential via the Panama Canal and to permit shippers in eastern Canada to move their products to British Columbia coast points in competition with similar products from European countries moving all water from Europe to Vancouver, as well as the competition from United States origins."

A. Yes, sir.

Q. Is it fair to say that the rates were put in to move Canadian goods to Vancouver in competition with American goods via rail to Vancouver?

A. Sometimes. I can give you a case there that I have given you many times before and that is the glass bottles from Redcliff to Vancouver in competition with glass bottles from California to Vancouver.

THE CHAIRMAN: Q. Glass bottles from California?

A. Yes, sir.

Q. Would that be water carriage?

A. The movement from California could be water or rail.

MR. FRAWLEY: Q. Mr. Jefferson, I think you have misapprehended the paragraph. I do not think it refers to rates from Redcliff to Vancouver. It speaks of the transcontinental commodity rates from eastern Canada

to British Columbia coast points having been put in to meet as well competition from United States origins?

A. Yes, sir.

Q. Your instance of the glass bottles from Redcliff would not apply there.

A. It applies in making a competitive rate to the coast but perhaps not a transcontinental competitive rate.

Q. Frankly you would say that paragraph was not apt to describe the Redcliff bottle movement. May I put it to you that your desire or need to meet the competition of American goods, via rail to Vancouver is due to the fact that the United States transcontinental rail rates apply themselves to Vancouver?

A. Because they do, yes.

Q. Yes, because they do.

A. I would not say that today we have very many rates to the coast made in competition with United States railroad rates to Vancouver.

Q. Why is that?

A. But we may have some.

Q. Why do you not have as many now?

A. Because their rates have gone up so high.

Q. Whatever competition you do have is due to the fact that the Great Northern actually runs into Vancouver?

A. Yes, and the Northern Pacific has rights into Vancouver with the Canadian Pacific and the British Columbia Electric Railway.

Q. But the actual physical connection is there. The Great Northern runs from its main line right into Vancouver?

A. They go in over their own tracks.

Q. Is there similar competition from American producers in Alberta?

A. From American producers?

Q. As there is from American producers in Vancouver?

A. There are no American producers in Alberta.

Q. American producers ship by rail into Vancouver and we have discussed that?

A. Yes, sir.

Q. Are there any American producers shipping via rail into Alberta over their own lines?

A. No, sir.

Q. The Great Northern stops at Sweetgrass?

A. Yes.

COMMISSIONER INNIS: Q. Has the rise in rates on the United States lines meant that you have much more traffic on your transcontinental lines?

A. What was that?

Q. Does the sharp increase in rates in the United States mean that you have a great deal more traffic on your transcontinental lines?

A. No, sir, transcontinental rates of the United States -- we will take Chicago, if you like. You can ship a carload of freight from Chicago to Vancouver and you can ship it over the Burlington and Great Northern all the way to Vancouver. You can ship it over the Burlington and Northern Pacific to Huntingdon, British Columbia, and over the Canadian Pacific to Vancouver or over the British Columbia Electric Railway to Vancouver. You can ship the same car of freight from Chicago to Vancouver over the Soo line to North Portal, and over the Canadian Pacific through Moose Jaw and Calgary right to Vancouver, all at equal rates. Rates over all routes

are kept on equality.

Q. So they are really determined by the international through rates we were talking about earlier?

A. Yes, sir, and the rates from Chicago to Vancouver are the same as Chicago to Seattle.

MR. FRAWLEY: Q. Coming back to the absence of any competition such as there is in Vancouver, the absence of that in Alberta, it is due in part at least to the absence of any United States railway running up into Alberta?

A. Well, I do not know what the rates would be if United States railroads ran into Alberta.

Q. You know what they are with the Great Northern running into Vancouver?

A. But that is a different situation. I daresay if American railroads ran up into Saskatchewan and Alberta today you might have higher rates than you have over the Canadian Pacific and Canadian National today.

Q. To the border at least?

A. No, all the way through.

Q. Because of these recent increases, they have had?

A. Not only the recent ones, but the rates in general in the United States. I showed you here today that the rates from Buffalo to Gillette, Wyoming, even in 1939 were higher than ours.

Q. I see. It is a fact, of course, when the American traffic reaches the Alberta border it is carried to its destination at maximum rates?

A. For the Canadian portion of the haul on merchandise traffic where we have not any through commodity rates. That is right. I gave you some evidence

of that as to agricultural implements.

Q. Now, Mr. Jefferson, I want to discuss Page 94 of Part I of your submission with you.

THE CHAIRMAN: We will take a few minutes recess.

---Recess.

(Page 16017 follows)

UPON RESUMING...

THE WITNESS: May I answer a question you asked me on salt? I have forgotten the page reference now, - 11852, was it?

MR. FRAWLEY: 11852, that is right.

THE CHAIRMAN: This is about salt?

THE WITNESS: Yes, sir. Now, the rate on salt, of 75¢, minimum 70, 000 lbs., that was published from Ontario shipping points to Vancouver, effective in December 1942, was published to meet import competition from California.

THE CHAIRMAN: I didn't hear the last.

A. ...published to meet import ccompetition from California.

MR. FRAWLEY: Now, Mr. Jefferson, will you look in your Appendix at the tables on pages 81 to 83, and I just want to ask you a question there. You make the statement on page 94 of your Brief, that only two items on the table indicate carmile earnings below the system average so there is no doubt that these rates are reasonably compensatory?

A. Where is that?

Q. That is on page 94 at the top of the page of Part I.

A. You are not disputing the number?

Q. Yes, that is what I wanted to ask you about, Mr. Jefferson.

A. Don't mix up the two tables.

Q. I am dealing with the table on pages 81 and 82.

THE CHAIRMAN: Is that about the middle of 94?

MR. FRAWLEY: No, at the top of 94.

THE WITNESS: Yes, but I think I am right, Mr. Frawley. 81 is dealt with by itself and then 82 and 83 are dealt with together, because 81 has eastbound rates and 82 and 83 have westbound rates.

Q. So you are dealing at the top of 94 with the table at page 82?

A. No, 81.

Q. Well, that is what I said in the first place -- 81. Now, looking at 81 then, and looking at the carmile earnings, I suggest to you that there are in fact 7 out of 12 below the system average of 35¢ and I do not want to take too m ch time with it. Perhaps you can check that yourself overnight if you wish, because, you see, you told us that the system average was 35¢?

A. Yes, sir.

Q. And just a quick look at that will indicate that there are seven that are below the system average?

A. That may be; I don't know the reason for that.

Q. That may be something that you perhaps can clear up. Then, I want to call your attention to the table on page 82, and I suggest that that table will show 10 out of 24 below the average of 35¢ for 1948, and you can perhaps examine into that?

A. Do we make any statement on that?

MR. EVANS: There is no statement made in the Brief.

MR. FRAWLEY: Well, the statement made in the Brief is that, "There should be no doubt that these rates are reasonably compensatory"?

THE CHAIRMAN: "In view of the long haul these rates are compensatory"?

MR. FRAWLEY: "In view of the long haul involved and in view of the fact that only two items on the table indicate carmile earnings below the system average, there can be no doubt that these rates are reasonably compensatory"?

MR. EVANS: With regard to that, that refers to the table on page 81, and there is no doubt that that probably should have had "only two items are substantially below ...". But with regard to the table on page 82, there is no equivalent statement made in the Brief on that.

MR. FRAWLEY: Now then, the carmile revenue average for 1949 will be better than for 1948, because of the increases which you have had?

A. I would say so.

Q. So that it would seem a proper observation to say that if you use the 1949 average, even more than the 10 on page 82 would be below the system average?

A. Not appreciable, but they might be a little below...

Q. Now, Mr. Jefferson, you say in Volume 77, at page 15476, just near the beginning -

A. Yes, sir.

Q. You say there, at the top of the page:-

come below anything unless Alberta can establish that the rates to Alberta points are in themselves unjust and unreasonable".

THE CHAIRMAN: Pardon me, where is that in the Brief - what page?

MR. FRAWLEY: At the top of the page at the beginning of the first full paragraph.

THE CHAIRMAN: You are referring to the Transcript?

MR. FRAWLEY: I am sorry, yes, sir. You will find the same thing, sir, in Part II at page 118.

THE CHAIRMAN: Now, what is the quotation?

MR. FRAWLEY: On page 118 it is the beginning of the third paragraph.

THE CHAIRMAN: "At the outset..."?

MR. FRAWLEY: Yes, sir. Now, Mr. Jefferson, let me put it to you, that you have a competitive rate between two points of $1.00 and a rate to an intermediate point of $5.00. Do you think that the $5.00 rate would be just and reasonable?

A. It might be.

Q. It might be?

A. Yes, it depends on the circumstances.

Q. Well then, no matter how many times greater than the competitive rate was the intermediate rate, that fact is of no significance to you?

A. No, sir.

Q. Then, just following that up, will you look at Volume 61 again, and to the table of rates at page 11768? Now, on that page, you will find a rate

and it has been referred to before, on unfermented grape juice, of $1.33 to Vancouver, $2.82 to Calgary, and $1.31 to Bonheur, Ontario.

A. Those are not current rates.

Q. No, they are not current rates, but they were before the revision of 1-J, I think. They were the rates in effect for some appreciable time?

A. Yes, I don't know what they are today.

Q. I don't know, but for my purpose it is not worthwhile running it down, Mr. Jefferson.

A. Well, the spread might be quite different, that is all.

(Page 16024 follows)

Q. Well, that is true, that is true, it might be somewhat different. Now, the mileage from Toronto to Bonheur is 940.7, as we have checked it in the distance table?

A. Yes.

Q. Still looking at this page 11768.

A. I do not see any miles on it.

Q. No, there are no miles there; perhaps you will be good enough to accept that mileage subject to check?

A. All right.

Q. From Toronto to Bonheur 940.7, and the rate is $1.33, and the rate from Toronto to Vancouver is $1.33, or was at this time, and the mileage is 2694.7. Now, Mr. Jefferson, I just want to be clear as to whether you are saying that, even though the rate is the same for one-third of the haul -- are you checking the distances, Mr. Jefferson?

A. Checking the rate. Apparently the rate today on the unfermented grape juice from Toronto to Vancouver is not $1.33, it is $2.37.

Q. And what is it to Calgary?

A. Calgary?

Q. Yes.

A. I would say offhand that Calgary would be -- oh, I don't know what class it is; probably fourth class.

THE CHAIRMAN: Q. How much?

A. I could give you the rate if it was fifth class, but I don't know---

MR FRAWLEY: Q. I am not interested in following it up; if you want to get it in the record all right, but as far as I am concerned I would like to discuss it with you on the basis as it was at the time this exhibit was made.

A. Yes, but the only thing, Mr. Frawley, is that I do not think, when the rate to Vancouver is over a dollar more than it was then, and the other rates have not gone up as much, that the discussion leads to one that is comparable, that is all.

Q. I don't think it matters, when you tell me that the intermediate rate example I gave you, of a competitive rate of one dollar and a rate to an intermediate point of five dollars, had no significance to you; then it does not matter to you that the rate to Bonheur was the same as the rate to V ncouver for one-third of the distance?

A. If you want me to agree that I do not think the principle is wrong, I will agree with you, as long as you do not put the emphasis on the difference in rate.

Q. Well, you say it has now disappeared?

A. No; because it is different; it is not a correct---

Q. That is right; you say that the difference now in this page has disappeared?

A. Yes.

Q. But at the time this table was prepared those were the relative rates?

A. Why not talk about the present?

Q. Well, at the moment I am talking about this, Mr. Jefferson, and I think we can get on a lot better if we will just talk about this particular sheet. The rate to Vancouver was $1.33 and the rate to Bonheur was $1.31, roughly the same, the distance is one-third, and I am simply putting it to you on this question in your brief that we must show that the rates to Alberta points are in themselves unjust and unreasonable, and I am only testing how far you would go with that point, and you would equally well say that the people in Bonheur would have no claim to protest against that rate being unreasonable merely because

it was not the same as the rate to Vancouver, which was three times as far?

A. Dealing with the principle only so long as we are making some money out of the rate to Vancouver.

THE CHAIRMAN: Where is this place you call Bonheur?

MR FRAWLEY: It is west of Fort William a few miles, sir.

THE CHAIRMAN: It is in Ontario?

MR FRAWLEY: In Ontario.

Q. Now, Mr. Jefferson, still in volume 77, will you go to page 15483, a few pages farther on. It is said there, in the second paragraph:

> "As to the second principle, that the competitive rate should more than cover the additional expense incurred by the traffic to which it applies, this also is a principle not only recognized by the railways" --

Now, the rest of it is what I want to call your attention to --

> "but which must inevitably be recognized by the Board of Transport Commissioners in determining whether competitive rates are compensatory or are unreasonably low."

I only want to ask you about that, Mr. Jefferson, whether to your knowledge the Board has ever disallowed a competitive rate which creates long and short haul discrimination because it was not compensatory in that sense, that is, that it should more than cover the additional expense incurred by the traffic to which it applies ?

A. I do not know. I cannot remember all the decisions of the Board.

Q. I put it to you that the Board does not examine except on complaint a competitive rate which creates long

and short haul discrimination?

A. That is right. It does not examine any rate except on complaint.

Q. Now, at page 15483, the same page, dealing with what you call the fourth principle, you say:

"As to the fourth principle, it is implicit in the Railway Act that the competitive rate must not be lower than is necessary to meet the competition. There is no doubt that on complaint, the Board under its existing powers, could disallow any rate which did not measure up to that yardstick."

A. "There can be no doubt".

Q. That is right.

A. You said "is no doubt".

Q. I should say "There can be no doubt". Now, do you know whether the Board has ever disallowed a rate on that basis?

THE CHAIRMAN: On what basis?

MR FRAWLEY: On the basis that it must not be lower than is necessary to meet the competition.

THE WITNESS: I would hope not, because I would hope that we would not make a rate lower than was necessary to meet the competition.

Q. I am only asking you whether or not you know of any instance in which the Board has disallowed a rate on that basis, and I am of course referring, mind you, Mr. Jefferson -- I think you know that I am -- to a competitive rate which creates long and short haul discrimination?

A. Yes, sir.

Q. That is the kind of competitive rate I am speaking of; and you say you do not know of any instance in which the Board has disallowed the competitive rate on that basis?

A. No, sir.

THE CHAIRMAN: Q. Has the Board disallowed many competitive rates on any basis?

MR FRAWLEY: Mr. Jefferson perhaps could tell us.

Q. Any competitive rate, whether they create long and short haul discrimination or otherwise; now, that is a broader question, Mr. Jefferson. Do you know whether the Board has disallowed many competitive rates, whether they create long and short haul discrimination or not, on that basis or on any basis?

A. I do not know; I will have to ask Mr. Evans.

Q. Well, in your knowledge? You are the man that makes the rates. Have you had many of your rates disallowed for that reason?

A. No, sir, not that I know of.

THE CHAIRMAN: Q. For any reason at all?

MR FRAWLEY: Q. For any reason at all?

A. Competitive rates disallowed by the Board?

Q. Yes?

A. Not that I could point out to you right away.

COMMISSIONER ANGUS: Q. Has the Board ever been asked to disallow them ?

MR FRAWLEY: Q. Do you know, then, of any applications to the Board to disallow a competitive rate?-- for any reason, I take it, sir.

A. Well, I know of one where the steamship lines asked the Board to disallow a rate; whether that was the railway that asked that or not---

Q. Wasn't that under the Transport Act?

A. Yes, sir.

Q. Under the Transport Act?

A. Well, under the Transport Act---

Q. Mr. Evans says that was an agreed charge.

A. No; on canned goods.

MR EVANS: Well, that is another one.

THE WITNESS: On canned goods, I think it was, where one water line filed a very low competitive rate to the head of the lakes and the other water lines objected to it. All these are carriers now under the regulation of the Board, and the Board disallowed the rate. I have a recollection of that case.

THE CHAIRMAN: Q. The Board disallowed what rate?

A. The lower competitive rate published by the water carrier.

Q. By the water carrier?

A. Yes, sir.

Q. Well, we are talking of railways now.

A. I do not know of any of the railways.

(Page 16031 follows)

MR. FRAWLEY: You say you do not know of any rail rates?

A. No sir.

THE CHAIRMAN: You do not know of any rail competitive rates that were ever disallowed in the east?

A. No sir. There may have been some.

Q. But you cannot remember?

A. I cannot recall any at the moment.

MR. FRAWLEY: I now call your attention to exhibit 135. I do not know if you have it handy. It is a statement entitled "Rates on Canned Goods, Eastern Canada to Pacific Coast".

A. Who filed it?

Q. It was filed by us. And it shows the rates which were in effect. I think I can put my question to you quite simply without you having to look up the rates?

A. I have not got the exhibit.

Q. Then I shall show you this rate. You put in a rate of 65 cents in May, 1936 and again in June, 1937, the tariffs being CFA X-716 and CFA X-706, an all 65 cent rate from groups A and B to Vancouver in 60,000 pound minimum. Do you recall that?

A. Yes sir.

Q. I put it to you that the car mile rate on that 65 cent, per hundred weight, was 13 cents per car mile.

A. That was not in 1950.

Q. Oh no. That was in 1938.

A. No, in 1936 and 1937.

Q. But was it not renewed in 1938?

A. It apparently was cancelled at the end of November, 1937 because, effective December 1, 1937, it was increased to 75 cents.

Q. I see. And then, wasn't there another rate?

A. It did not apply, because this one took its place.

Q. Well, that rate was in, and would you say it was compensatory while it was in?

A. It was at the time.

Q. You say it was at the time?

A. Yes sir. We were in a depression period there and we were hungry for some business.

Q. Now, I want to take you to page 15498 in Volume 77 where you make this statement:

> "In the United States relief has generally been rejected ---"

A. Where is that?

Q. About the middle of the page.

A. Oh yes. You started a sentence off with the word "generally".

Q. "In the United States relief has generally been rejected in regard to transcontinental rates to a greater extent than in the case of other competitive rates, because of the policy of Congress to afford protection to inter-coastal shipping."

You are speaking of relief from the long and short-haul rule?

A. That is right.

Q. Now, is this what you are saying: That the Interstate Commerce Commission gives the carrier the option to not put in the low rate at all, or to put it in and blanket it back to the intermediate point. That is the sum and substance of rejecting or refusing the relief, is it not?

A. It would be relief to the carriers to use their description.

Q. That is right: and they could either not put in the rate at all or put it in. But if they did put it in, they would have to blanket it back to intermediate

points.

A. It might be attacked as a measure of other rates.

Q. You say it might be attacked as a measure of other rates?

A. Yes.

THE CHAIRMAN: Is the word "attacked"?

A. I mean: by them. If they voluntarily made a rate on canned goods, let us say, lower than was in effect without any relief, and some other shippers used that rate in comparison with some rate they had to put in for an equal distance, they would have to show the reason why they charged a higher rate in one instance and a lower rate in another instance, for the same mileage.

MR. FRAWLEY: You said you were talking of canned goods?

A. Yes.

Q. Well, we are not. I was discussing this statement in your brief, and it does not refer to canned goods. I want to get what this means with respect to protection of inter-coastal shipping?

A. I think I answered that.

Q. This statement in your brief means, I take it --

THE CHAIRMAN: You are talking of a brief now?

MR. FRAWLEY: No, it is the transcript. I am sorry.

Q. In other words you feel and you say that the Interstate Commerce Commission is making it difficult for the rails to compete with water carriers? Is that correct?

A. On transcontinental traffic.

Q. On transcontinental traffic?

A. You see the point there is that, as we say further on -- maybe you read it -- the policy of Congress is to

afford protection to inter-coastal shipping.

Q. That is right.

A. They do not want rail rates made so low as to put inter-coastal shipping out of business.

Q. Then it is a fair summary to say, as I have said, that in your view the Interstate Commerce Commission is making it difficult for rails to compete with water carriers on transcontinental rates because the port rate is higher than necessary to meet the water competition?

A. What is that again, please?

Q. You say that the Interstate Commerce Commission is making it difficult for the rails to compete with water carriers, the reason being that the port rate is higher than necessary to meet water competition?

A. The port rate by rail?

Q. The port rate by rail.

A. Yes. I would not say "necessary"; but higher than it should be to enable rail lines to get the business.

Q. As against that, is it not a fact that the ship owners are and have been complaining, and are still complaining that the transcontinental rail rates are so low that the shippers cannot compete?

A. I agree that the rail and water lines are always in disagreement as to what the rates should be by each mode of transportation to compete on a competitive basis.

THE CHAIRMAN: What is the application to us?

MR. FRAWLEY: The application to the Interstate Commerce Commission?

THE CHAIRMAN: No, no. To our case?

MR. FRAWLEY: Except that there is a suggestion that the relief from the violations would have been due to the ability of Congress to afford protection to inter-coastal shipping. That is the statement I challenge,

that the ship owners are complaining to the Interstate Commerce Commission that the transcontinental rates are not too high but too low and that ships cannot compete. The inter-coastal fleet is only 25 per cent of what it was before the war.

A. I have no doubt it is less. That has nothing to do with Alberta receivers.

THE CHAIRMAN: Where you have Congressional instructions to a rate-fixing Board that nothing must be done to injure other railways on the one hand or the ships on the other, shippers by vessels, there must be quite a lot of room for contention between the two classes, between the railways and the vessels.

MR. FRAWLEY: I would think so.

THE CHAIRMAN: It must make it pretty hard for the Board?

MR. FRAWLEY: I would think so.

THE CHAIRMAN: We have not got that in Canada.

MR. FRAWLEY: No. We have no express declaration.

THE CHAIRMAN: What are you saying? Are you saying that in the United States the railways are undercutting the ships, according to the attitude taken?

MR. FRAWLEY: That is what the ships say, sir.

THE CHAIRMAN: Yes?

MR. FRAWLEY: All we know is --

THE CHAIRMAN: And what use is that to us?

MR. FRAWLEY: All we know is that the rails have put in rates which they have blanketed back to intermediate points.

THE CHAIRMAN: Yes?

MR. FRAWLEY: And the contest is still going on.

THE CHAIRMAN: Just as here we find rates blanketed back to Vernon?

MR. FRAWLEY: Oh no. That is an exception, sir. They are certainly not blanketed back to Brooks. We have learned that this afternoon.

THE CHAIRMAN: Have we any parallel situation to that in Canada?

MR. FRAWLEY: Oh, no. That is Alberta's grievance, really.

THE CHAIRMAN: That is what I thought. That is what you want?

MR. FRAWLEY: That is what we want, sir.

Q. Now, Mr. Jefferson, I want to take you, in the same volume 77, to page 15504 where you said this; when Mr. Carson asked you:

"Q. I take it, Mr. Jefferson, that if, under the law, you were compelled to carry the competitive rate back to points in Alberta, you would forego the coast business?"

And you said:

"A. We could not afford to do otherwise. The loss of revenue to the intermediate points would be too great. This would be harmful to the over-all revenue picture of the railways."

Now, let me put this to you: Would you say that the relief perhaps of the Canadian Pacific's terminal business to the port and intermediate business was different in any important respect from the relief, perhaps, of the Santa Fe, let us say?

A. Maybe not, I do not know.

Q. Now, the Santa Fe, as you know, endures the rigid long and short-haul rule on transcontinental traffic which is in force in the United States?

A. They are obliged to.

Q. But they are enduring it from day to day.

Do you know of any road in the United States that has foregone traffic to the coast because of the rigid application of the long and short-haul rule to transcontinental traffic?

A. I have no doubt but what the transcontinental railroads are doing it every day in the week in dealing with applications for transcontinental rates to capture business that is moving by water. And if they did reduce the rate, they would have to apply it to the intermediate points. But knowing they could not get relief from the Commission, therefore they just would not do it.

Q. There are some rates which are in between the area but the greater proportion of their traffic is traffic subject to the long and short-haul application?

A. What do you mean?

Q. Take the Chicago and North Western, running from Chicago to Council Bluffs?

A. What about it?

Q. That road is virtually living on long and short-haul traffic.

A. Oh no.

Q. No?

A. The Chicago and North Western is a railroad of substantial size, and it has an enormous amount of traffic which is not trancontinental traffic.

Q. I mean as to its transcontinental traffic, as to its traffic from Chicago west, it is very closely related to the rigid application of the long and short-haul rule?

A. Sure. But if they knew it was going to pull down their revenue on all the intermediate traffic, I do not care whether it is on the Chicago and North Western or on the Union Pacific with whom they are connected, they would not reduce the rate to the coast.

Q. They are participating in coast business. They are hauling goods to the coast on rates, terminal rates that have been made to comply strongly with the long and short-haul rule?

A. That is right. But they might get a lot more transcontinental traffic if they were allowed to have a lower rate to the coast without pulling down intermediate territory.

Q. That is true. But they are enduring the present situation?

A. They endure it because they have to endure it.

Q. I asked you if you knew of any road that had foregone traffic to the coast because of the rigid application of the long and short-haul rule?

A. I told you that it did every day.

Q. But that is just your surmise.

A. Well, they have a transcontinental committee which sits in Chicago all the time and deals with transcontinental rates for all the railroads on the Mississippi River, deciding whether they will or not reduce the rates to the coast. And I am sure they would not reduce the rates to the coast if those rates must apply to intermediate territory, and if they were going to affect their intermediate territory.

Q. But they would give up territory and let the water take it?

A. They would have to.

Q. Look at page 15507.

THE CHAIRMAN: All these railways get together and fix the rates?

A. Oh, yes.

Q. You say they have got a committee sitting in Chicago constantly?

A. Yes sir. They have what is known as a Transcontinental

Committee which sits in Chicago all the time. It is called the Transcontinental Freight Bureau.

Q. Is there anything comparable to it in Canada?

A. Possibly the Canadian Freight Association.

Q. We had a Mr. Gaffney who represented some body, before us?

A. That was the Railway Association of Canada, which is more an operating part of the railways.

Q. You say there is a commmon committee, a rate fixing committee of both railways. Is there any other association?

A. No sir.

MR. EVANS: There is the Canadian Freight Association, and there is the Railway Association of Canada.

A. That is right.

THE CHAIRMAN: How is the Canadian Freight Association made up?

A. By all the railways in Canada.

Q. Similar to what you said was going on in Chicago?

A. That is right.

Q. Does it sit right along?

A. It does not sit continually. They have meetings every month for about a week during the month.

Q. In Montreal?

A. Either in Montreal or Toronto. Principally in Toronto.

THE CHAIRMAN: We shall adjourn now until tomorrow.

(--At 4.45 p.m. the Commission adjourned until tomorrow, Wednesday, February 22, 1950 at 10.30 o'clock in the morning.)

A.R.

ROYAL COMMISSION
ON
TRANSPORTATION

EVIDENCE HEARD ON

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO
WEDNESDAY
FEBRUARY 22, 1950.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN

HAROLD ADAMS INNIS - COMMISSIONER

HENRY FORBES ANGUS - COMMISSIONER

G. R. Hunter
Secretary

P.L. Belcourt
Asst. Secretary

COUNSEL APPEARING:-

F.M. Covert, K.C. G.C. Desmarais, K.C.	Royal Commission on Transportation
A.H. Hart	Canadian National Railways
C.F.H. Carson, K.C. F.C.S. Evans, K.C. I.D. Sinclair	Canadian Pacific Railway
C.D. Shepard	Province of Manitoba
M.A. MacPherson, K.C.	Province of Saskatchewan
J.J. Frawley, K.C.	Province of Alberta
F.D. Smith, K.C.	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade
J. Paul Barry	Province of New Brunswick
C.W. Brazier	Province of British Columbia
F.R. Hume M.L. Rapoport	Canadian Automotive Transportation Association

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Ottawa, Ontario,
Wednesday, February 22, 1950

MORNING SESSION

---The Commission met at 10.30 a.m.

C. E. JEFFERSON, RECALLED

CROSS-EXAMINATION BY MR. FRAWLEY (Cont'd)

Q. Mr. Jefferson, would you please look at volume 61, page 11852. I was asking you yesterday about the change that you made in the salt rate from these Ontario plants west, and you told me that it had been reduced from $1.48 to 75 cents, that is, the transcontinental rate to Vancouver had been reduced from $1 48 to 75 cents, and the minimum of 36,000 which was at $1.48, was increased to 70,000 at 75 cents. You told me that that had been because of California competition?

A Yes, sir.

Q Revenue-wise, Mr. Jefferson, this must have made a big change for the worse in your net revenue position?

A. If there was a movement at $1.48 rate, we would have earned less per 100 pounds than we did at the 75-cent rate, yes

Q. You agree with the general proposition that your net revenue was worsened on that movement?

THE CHAIRMAN: No; he says, if there was a movement.

THE WITNESS: If there was a movement at $1.48

THE CHAIRMAN: Q Your point is that there was --

A I don't think there was; I think that is why we reduced it.

MR. FRAWLEY: Q I suppose there was a movement - you say that at $1.48 there was no traffic?

A. I doubt if there was any traffic at the $1.48

rate; there may have been a little; I wouldn't say there wasn't any.

Q. My statement does not say how long the rate was in; these are merely changes which my statement indicates. Had that rate of $1.48 been in force for some time before that? Perhaps for years?

A No doubt. I don't know what the present rate is -- it is $1.10 and a minimum of 85 cents.

Q Mr. Jefferson, I am not worried about the present rate; I am only asking you if you can tell me how long the rate of $1.48 was in before December, 1942, at the time you changed it to 75 cents?

A I don't know whether we have that information here or not. You did not have the history of this rate in your exhibit?

Q No, merely the change.

A. I see.

Q. You are leaving the impression with me that for all intents and purposes the rate began at 75 cents?

A No, I am not. We had a rate in 1942 of $1.48; to what extent that rate was being used to the coast, I don't know. We apparently were not getting the business, therefore, we reduced the rate to 75 cents to get some business from eastern Canada, because of the competition with California.

THE CHAIRMAN: Q. Did you get the business?

A. We got the business. You mean after we reduced the rate?

Q. Yes.

A. We did. I won't say we got all the business, but we got some.

MR. FRAWLEY: Q. You say, Mr. Jefferson, when you shifted those maxima that the gross revenue remained

the same, did you not?

A. When we shifted the maxima?

Q. You changed the maxima from 36,000 at $1.48 to 70,000 at 75 cents. I suggest that retained for you the same gross revenue?

A. You mean that the $1.48 rate at 36,000 pounds produced the same revenue per car as the 75 cent rate at 70,000 pounds? Mr. Buckingham just handed me a piece of paper here showing the $1.48 rate at 36,000 pounds produced a per car revenue of $532, whereas, the 75 cent rate at 70,000 pounds produced a per car revenue of $525.

Q. How much at the new rate?

A. 75 cents for 70,000 pounds, $525.

Q. Now I am asking you to tell me whether or not you lost revenue, whether your net position was not worse?

A It was worse to the extent of $7 per car and the extra cost of hauling 70,000 pounds as compared with 36,000 pounds.

COMMISSIONER ANGUS: Q. Is it the general assumption that if there was a minimum rate at 36,000, that that is the actual rate of every car?

A. Not necessarily.

Q. It is open to someone to ship 70,000 pounds at that rate?

A. If they ship 70,000 pounds in a car during the period of the $1.48 rate, the earnings on the car would be very much higher.

Q. So that your figure for the 70,000 pound car is the ceiling figure, while the figure for the 36,000 pound is the minimum figure?

A. Is the minimum figure. The 70,000 pounds is not necessarily the ceiling; they may load 100,000 pounds.

MR. FRAWLEY: Q. You told me a moment ago that

[illegible]

[illegible] the maximum figure [illegible] 1,000 at 1.4%

[illegible] I suggest that [illegible] for you

[illegible]

[illegible] the [illegible] at $6,000 [illegible]

[illegible] the 7% [illegible]

[illegible] Washington just [illegible]

[illegible] working [illegible] at $6,000 [illegible]

[illegible] or $700. where's, the 7% [illegible]

[illegible] reduce [illegible] our revenue [illegible]

2. [illegible] much [illegible] the new [illegible]

[illegible] rate for 70,000 rounds, [illegible].

[illegible] now I am asking you to bill me [illegible]

[illegible], which [illegible] position [illegible]

It [illegible] to the [illegible] $7[illegible]

[illegible] of [illegible] 70 [illegible] [illegible]

COMMODORE [illegible]: [illegible] I [illegible]

[illegible] of [illegible] were [illegible] 1,000

[illegible] the second [illegible] of [illegible]

[illegible]

[illegible] to open [illegible] on [illegible] 70,[illegible] rounds [illegible]

[illegible]

[illegible] ship 40,000 [illegible] in [illegible]

[illegible] I let [illegible] the [illegible] on the [illegible]

[illegible]

So that your figure for the 70,000 round

[illegible] figure [illegible] the figure for the [illegible]

minimum figure ?

[illegible] is the minimum figure. The [illegible]

[illegible] ship [illegible] fitting; they are [illegible]

MR. [illegible]: C [illegible] You told me [illegible]

your net position would be less by the $7 difference in the car mile revenue, plus something else being the difference in the cost of moving a 70,000 pound car and a 36,000 pound car. Could you tell me how much more, that is, how much to add to the $7?

A. No, sir.

Q. You could not tell us that at all?

A. No, sir.

Q. Mr. Jefferson, will you turn back to page 11851; I wish to call your attention to what you did with cement. At the top of page 11851: you say you reduced your rate on July 30, 1942, from the old rate of $1.48 with a minimum of 40,000 to 75 cents with a minimum of 60,000. Now why was that done, there being, I suggest to you, no water competition at that time?

A. I will have to wait until I get my sheets. The statement I have here was that in July, 1942, we reduced the rate on Portland cement from Paris, Ontario, to Vancouver, from $1.48 for 40,000 pounds to 75 cents for 60,000 pounds, to meet import competition from England. The present rate is $1.25.

THE CHAIRMAN: With what minimum?

A. 50,000 pounds.

MR. FRAWLEY: Q. Now on page 11853, I wish to ask you again about flooring aggregate, which is at the bottom of the table. You reduced the rate on December 5, 1944, on flooring aggregate, from $1.20 with a minimum of 70,000 to 75 cents with a minimum of 70,000; in other words without changing the minimum. Can you tell me why you reduced that, and again I suggest that there was no water competition at that time?

A. I will see if I can tell you that.

Q. While we are waiting for that to be looked up,

this British competition that you said you were meeting on Portland cement, did that come by water?

A. Oh, yes.

Q. Through the Panama canal?

A. Yes, sir.

Q. That is in July, 1942?

A. Yes, sir.

Q. But is definitely was an all-water movement on British cement to the west coast?

A. Yes.

Q. That is what you say you were meeting. I can go on with something else if Mr. Buckingham wants to take some time to look that up.

MR. BUCKINGHAM: I don't see it at all; I don't see it in the tariffs to-day.

MR. FRAWLEY: Q. I shall pass on to something else, Mr. Jefferson, and if Mr. Buckingham can get that I will come back to it.

MR. BUCKINGHAM: It is probably in the middle of a large item.

MR. FRAWLEY: That may be; I don't know, Mr. Buckingham.

Q. Mr. Jefferson, in volume 77, at page 15507 -- you have that?

A. Yes, sir.

Q. About a third of the way down the page you say:

"At the present time there are 54 commodity items naming eastbound transcontinental rates from British Columbia coast points to destinations in eastern Canada. In no instance has the Montreal and Toronto rate been applied as a maximum to the intermediate points Winnipeg and west."

In other words, what you say there is that there is what I call the long and short haul discrimination with respect to traffic?

A. That is, that we charge a higher rate to Winnipeg than we do to eastern Canada?

Q. Yes, Mr. Jefferson, that is the fact.

A. That is what you call the long and short haul discrimination.

Q. I think we can take it that that is in the sense which I use it. You can always add that when you are answering me about it.

A. Yes, sir.

Q. As to Winnipeg and west, it is a fact, is it not, that for a number of years there were a number of commodities where you did apply the Montreal rate as a maximum to intermediate points, such as Winnipeg and Regina?

A. I don't know. If you could give me a reference to some commodity I could check it up.

Q. I will see what I can do about it. But I want to make it clear that you did for a number of years on a number of items do so. . . If I am right, that would be without practising the long and short haul discrimination?

A. If we applied Montreal rate as a maximum to all intermediate points west of Montreal, yes, sir.

Q. No, I am just putting to you what was done on a number of commodities: you applied Montreal rate as a maximum to such intermediate points as Winnipeg and Regina. That is as far as my instructions go.

A. I would like the commodities and the reason for the rates.

Q. Now, Mr. Jefferson, I would ask you to be good enough to have that matter looked up for me, even if I have to come back to it. In other words, I would like to know when that adjustment was removed.

A. I can't look it up without some information as to what commodity you are talking about.

Q. Even to begin to make a search of the matter you would have to have a commodity?

A. I wouldn't know where to begin.

Q. You would have to have some commodity to enable you to make any search at all?

A. Yes, sir.

Q. Now, Mr. Jefferson, I have two commodities to suggest to you in connection with that last question -- tea and rice?

A. Well, I gave you the answer on tea the other day; I told you what we did on tea in my evidence.

Q. Can you restate it very briefly for me, because I haven't got the note here? Was tea an instance where you did apply the Montreal rate as a maximum or not?

A. No, I think it was one where we did not. I don't know that I can give you the reference to it.

Q. I would not like you to stop now and --

A. Here it is right here.

Q. You have it there?

A. On page 15506 of the transcript:

"All import shipments of tea, for example, both the less than carload and carload rates to Calgary are the class rates of first class and third class respectively. To Regina and Winnipeg, the Winnipeg rate on the boundary (Noyes) combination is applied on both less than carload and carload shipments. At the present time the less than

[illegible]

[illegible] Now, Mr. [illegible], I would ask you to go [illegible]

[illegible] to it. [illegible]

[illegible] when the [illegible] was a member.

[illegible] I don't think it is without some interest [illegible]

[illegible] what [illegible], you [illegible] [illegible].

[illegible]

[illegible]

[illegible] [illegible] [illegible] to [illegible].

[illegible] You would b[illegible] [illegible] [illegible]

[illegible]

[illegible] Yes, sir.

[illegible] Mr. [illegible]-[illegible], I have [illegible]

[illegible]

[illegible]

[illegible] [illegible] you which we did [illegible] in my evidence.

[illegible] Can you [illegible] it were [illegible] from [illegible]

[illegible] It not [illegible] not [illegible]? Was it in instruc[illegible] [illegible]

[illegible] [illegible] the [illegible] [illegible] a [illegible] or not?

[illegible] Yes, I think it was [illegible] [illegible] we did not. I

[illegible] know that I [illegible] [illegible] [illegible] to it.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]:

[illegible] [illegible] friendship of [illegible] [illegible] [illegible].

[illegible] I am that [illegible] [illegible] [illegible] [illegible] to

[illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

carload rates to Toronto and Montreal are lower than the rate to Winnipeg. In fact, they are at present below the New York rate which rate is customarily applied. In the case of carload shipments the rate to Toronto and Montreal is higher than the rate to Winnipeg and Regina and is in fact the New York rate."

(Page 16048 follows)

Q. Now, I am sorry I let you read all that, because, Mr. Jefferson, you are now stating what the situation is today?

A. Yes, sir.

Q. Now, Mr. Jefferson, really I want to make it clear I am going back to a time in the past, and I am asking you when it was that the previous situation, which I suggest to you was the fact, was adjusted. You have told us precisely what it is today, Mr. Jefferson. We are not under any misapprehension about what the situation is today. I suggest there was a time when the present situation did not obtain and I am asking you for information as to when the situation was adjusted. You say you will have to look into that matter, will you?

A. I don't know when it was adjusted, if it existed. I do not know that it existed.

Q. You are not accepting from me the fact that it existed at all?

A. That is right.

Q. All I am asking is that you would be good enought to make some inquiries and let me know.

A. How far back do you expect me to go?

Q. I don't know how far back, Mr. Jefferson. You know a great deal more about this shipment and how long it was on than I do, and I would like you to make some research and find out.

MR. EVANS: May I just say this? Surely if we are going to have to review the history of all these rates, that is one thing, but it does seem to me that the important thing is what the situation is today - not what it was twenty years

ago or thirty years ago. There may have been reasons - -

THE CHAIRMAN: I would just like to say this, we here are interested in getting back to some principle. Will you tell me what point you are seeking to establish.

MR. FRAWLEY: I want to examine what the course of the practice of long-and-short-haul discrimination has been over a period, and what it is today. It simply is a part of my case that there is now long-and-short-haul discrimination, and if I am right, in that instance, they made an adjustment. When they applied the Montreal rate as maximum then there was no long-and-short-haul discrimination such as there is today and every day and always has been as far as Alberta is concerned. Now, I just want to put my finger on what the past experience was. I think it is important to the Commissioners to know whether there was in fact any practice of that kind and why.

THE CHAIRMAN: I suppose what you want ultimately is some statutory prohibition against long-and-short-haul discrimination?

MR. FRAWLEY: Of course, sir, I have a rather complete submission to make as to what should be the treatment of long-and-short-haul discrimination henceforth, but I think at the moment I want to lay before the Commission - I won't say inconsistencies - but just what the practice has been.

THE CHAIRMAN: You want to show that it has existed?

MR. FRAWLEY: And that there was a time when it did not exist.

THE CHAIRMAN: And you want to show that it still exists?

MR. FRAWLEY: No, we know what the story is now. I think I can settle it right now by calling the witnesses' attention to a Judgment of the Board of Transport Commissioners in 1917.

MR. EVANS: Just a minute, Mr. Frawley. It seems to me to be this. Let us suppose in the reverse case that you could show there were twenty five hundred cases of unjust discrimination in the past which had all been remedied. Now, what possible use would that be in determining whether the legislation now in existence should be changed or not? It seems to me that you are digging into the past to no end, but what we want to find out is what the situation is today, and what are the conditions, if any, that require remedy. It seems to me what you did in the past in all these things - I am not trying to avoid producing this, but there is some limit to the amount of digging which our staff can do, and I think unless it is going to be helpful to the Commission, it should not be gone into.

MR. FRAWLEY: It is a question, Mr. Chairman, of the blanketing of the rates east to west and west to east. It seems to me to be important to know what the railway did, not back to the beginning of time, but as recently as 1917 when, according to this Judgment of the Board, the rate on tea was blanketed back.

THE CHAIRMAN: What happened? Who complained

against the blanketing?

MR. FRAWLEY: In the Regina Board of Trade Case the increase in the rates to Regina arising from increased west to east transcontinental rates was attacked, and the Board said:-

> "The rate is on a water-compelled basis, and Montreal is the maximum to the intermediate point, thus spreading over the intermediate points not affected by water competition the effects of the competitive rate basis."

That is important to me, sir, because that is precisely what I am asking so far as Alberta is concerned.

THE CHAIRMAN: Now, what did the Board do about it?

MR. FRAWLEY: I have not got the Report here, sir.

THE CHAIRMAN: I thought you were reading from the Report?

MR. FRAWLEY: I am reading from the extracts of the Report that were put into the Transcript.

THE CHAIRMAN: I would like to know what the Board did about the practice?

MR. FRAWLEY: I would have to send for the Report now, sir. That could be done, but whether I should go on, or discuss it when I am summing up this matter later, I do not know.

THE CHAIRMAN: In the meantime, you are trying to show through Mr. Jefferson that this discrimination has been practised in past years and it

is still going on?

MR. FRAWLEY: No, I am trying to show that there was a time when they blanketed the rates back, they removed long-and-short-haul discrimination on west to east traffic.

THE CHAIRMAN: On certain commodities?

MR. FRAWLEY: Yes, and I just want to show that.

THE CHAIRMAN: But when you have shown that, what do you establish?

MR. FRAWLEY: Just to show, sir, that what they did then they have changed, and it is historically important as indicating that what they did at that time could be done now.

COMMISSIONER ANGUS: Was the Panama Canal being used in 1917 for tea?

MR. FRAWLEY: I am sorry, I did not hear you, sir.

COMMISSIONER ANGUS: Was the water competition in 1917 Panama Canal competition?

MR. FRAWLEY: What would you say about that, Mr. Jefferson? In 1917 were boats going through the Panama Canal with tea or from the Orient?

THE WITNESS: Yes, I would think the water competition in 1917 was not direct steamers from Vancouver to Eastern Canada, because I think the boat service, the direct service, between British Columbia and Quebec ports was really not established until after the first war, but this water competition that Mr. Frawley is referring to

on tea, is direct movement of tea by water from foreign countries.

THE CHAIRMAN: Do you mean from Asia?

A. Yes, sir, from the Orient. I don't know whether Mr. Frawley is talking about import rates or domestic rates, or what.

COMMISSIONER ANGUS: My point was this: I thought the railways might not have been under as much pressure in respect of these rates in 1917 as they have been since, and that that might account for some of these differences in practice.

MR. FRAWLEY: As I say, sir, I was simply anxious to get a statement from the railways as to just why and when that was adjusted and the reasons for it, because there was a time, as it now appears, that they did apply the Montreal rate as a maximum on west to east shipments. I don't think there is any mystery about it, I don't suppose.

THE CHAIRMAN: Was that a desirable or undesirable state of affairs?

MR. FRAWLEY: There was no long-and-short-haul discrimination so that was quite desirable as far as I am concerned.

tHE WITNESS: You must realize, Mr. Frawley, that there were less water competitive rates from the west coast to the east in 1917 than there is today or have been in later years.

Q. Well, we are speaking now of 1917. How long did it continue after 1917? That is what I would like to know?

A. I don't know.

Q. I suppose that can be found out, whether it was two years or three years or right up to a couple of years ago?

A. It would be a lot of work to find it.

Q. With all respect, I would like to put on the record how long that situation continued and whether any long-and-short-haul discrimination was practised in other years where the rates were blanketed off. If it can be done readily, I would ask that it would be done. I am more or less in the hands of the Commissioners, the railways and Counsel and I will just leave it at that.

A. Before we go on, Mr. Frawley, may I say that this flooring aggregate which you were speaking about a few minutes ago, I don't know why the reduction was made to which you refer because I have not the information here, but perhaps it would be sufficient for me to say that the item was cancelled effective 12 February 1949.

Q. Well, there you are again, Mr. Jefferson. With all respect, I am not interested in what the present situation is; I am interested in what the effect was at that time, what it was before, what it was then, and why it was changed.

MR. EVANS: Supposing it was wrong then, Mr. Frawley, and was changed back to correct it? There is a point in that. If it was wrong then and we corrected it, what complaint have you got?

THE CHAIRMAN: I suppose you apparently desire to have such a state of the law that will prevent these wrongs occuring again. Is that your idea?

MR. FRAWLEY: Yes, sir.

THE CHAIRMAN: Is that one of the cases where you have drafted amendments?

MR. FRAWLEY: I have drafted an amendment on long-and-short-haul, yes, sir - a rather complete one. Now, Mr. Jefferson, I want to talk to you about what you said at page 15511. It is in the same Volume there, and there you are talking about our Brief on Industrial Location. At the top of the page, you say:-

> "It may be said here, that the rates on low grade commodities in Canada are generally so low that it would be disastrous to the revenues of the railways, to reduce the rates on finished products to anything nearly approaching parity with the rates on raw materials."

Now, Mr. Jefferson, when you use the word "parity" do you mean that the rates should be the same? "Parity" means that the rates are the same. Is that the sense in which you use it?

A. The same or close to it.

Q. Now, do you suggest that we at any time have suggested that the rates, meat and livestock, should be the same? Do you take that from our submission?

A. No, I do not say you say they should be the same.

Q. We never used the word "parity". We did not say we were asking for parity in rates between the raw materials and the finished product.

A. Not what you would call the very same rate, no, but you want what you call "equality" or something like that.

Q. Now, you said, going on another sentence:-

"If this were done, it would be difficult to make the changes in such a way that serious disturbance to existing industry could be avoided".

Now, where is the "existing industry" that you are concerned with seriously disturbing?

A. Well, I think we have got to associate ourselves with one subject. You cannot deal with this matter by having what I am going to say applied to all commodities, but with respect to rates on livestock compared with the rates on fresh meats and packinghouse products, if you want this so-called neutrality or critical relationship or whatever you term it established, and the rates on the meats and on the packinghouse products are reasonable, then there is only one thing to do, to do all you want done, and that is increase the livestock rates, and I cannot see the livestock producers in Alberta taking a substantial increase in livestock rates with much favour.

Q. So you just want to eliminate the other end of the industry? You are not concerned then when you say "existing industry" with the meat packing indsutry, but with the livestock industry?

A. In that instance, yes. Each instance has got to be considered by itself and on its merits.

Q. To take the meat and livestock instance, in that instance you are referring to the livestock industry, not the packing industry?

A. No one has said that the meat and packinghouse products rates are unreasonable.

Q. That is not answering my question. There are two sides to the industry, livestock and packinghouse products, and at the moment you say you are concerned with seriously disturbing the livestock industry by increasing the rates?

A. I say, we can only do what you want done by increasing the livestock rates, Mr. Frawley.

Q. And you say that would be a serious disturbance?

A. And I think you would agree with it.

Q. Do you think that you would have to double the livestock rate?

A. I do not know, because frankly, Mr. Frawley, I cannot see how we can ever make freight rates as you suggest in that Brief. I do not see how it could be done.

Q. That is more or less by way of a general damnation of it, and I would like to ask a few questions about it. I am concerned with asking you whether or not you thought it would be necessary to double the livestock rate from Calgary to West Toronto?

THE CHAIRMAN: In order to produce what result?

MR. FRAWLEY: The critical relationship for which we are asking. You don't think it would

be necessary to do that, do you?

A. I don't know.

Q. Because you are willing to double the rate on grain without unduly disturbing the grain growing industry in Western Canada?

A. I did not say I was willing to.

Q. You thought that could be brought about without unduly disturbing or causing disaster to the industry?

A. On the mathematical computation that Mr. MacPherson made, yes.

Q. But on any computation you may have had, to establish the rate relationship that we are advocating, you do not think you would have to go so far as to double the rate on livestock? It is now $1.39, Mr. Jefferson, from Calgary to West Toronto.

THE CHAIRMAN: What is?

MR. FRAWLEY: The rate on livestock from Calgary to Toronto. I am told it is $1.39 without the 8% increase, so there would be 8% to be added because these are taken from our Brief, and they were prepared before the 8% increase.

THE WITNESS: The present rate on livestock from Calgary to Toronto is $1.50.

Q. That is $1.39 plus 8%?

A. That is right.

Q. And you have not got the meat rate there, have you?

A. Yes.

Q. $2.27 plus 8%, whatever that is?

A. Are you talking of fresh meats now, or packinghouse products?

Q. Fresh meat.

A. You see, Mr. Frawley, you have got a different rate on meat and packinghouse products, they do not take the same rate.

Q. Oh yes.

A. The rate on fresh meats from Calgary to Toronto today is $2.45; on packinghouse products the rate is $2.10.

Q. Now, having looked at those rates, I am only making the suggestion to you, have you ever contemplated that you would have to double the livestock rate to establish this critical relationship that we are advocating?

A. No, sir, all I am saying is, that to do what you want, as I understand it, either the meat and packinghouse products rates would have to come down, or the livestock rates go up, and I say we cannot afford to reduce the rates on meats and packinghouse products.

(Page 16060 follows)

Q. I am going to ask you something about that in a few minutes. Now, Mr. Jefferson, would you turn to page 15519. I just want to call your attention to something you said there. At the top of the page you say:

"Quite obviously, these relationships would have to be established for a very large number of raw materials and finished products since even though Alberta might be interested mainly in livestock and meats and in oil and the products of crude oil, other parts of Canada would insist upon similar relationships being established for their raw materials and the finished products of those raw materials."

Now, that would seem to me to imply, Mr. Jefferson, that today in a large number of cases the rate structure encourages the movement of the raw materials rather than the finished products?

A. I do not say that at all.

Q. You do not say that?

A. No, sir. I say you would find if you were going to apply this principle that you talk about all over the country, you could not confine it to livestock versus meats and packing house products.

Q. That is right; all I am saying is, from what you say, when you say these relationships would have to be established for a large number of raw materials and finished products, I simply put it to you that the inference from that is that today the rate structure encourages the movement of the raw material rather than the finished product?

A. I would not say so.

Q. Now, you have told me that the rate on meat was $2.45 and the rate on livestock is $1.50?

A. And packing house products $2.10.

Q. Don't you think there is some latitude there for increasing adand reducing without doubling the livestock rate?

A. I have not suggested that the livestock rate be doubled.

Q. But you thought that the grain rate could be doubled without causing disaster to the industry?

A. We are talking about livestock now.

Q. Now would you look at page 15522; you say:

"This would mean that the Board"---

A. Where is this?

Q. On page 15522:

"This would mean that the Board, in considering the rates in any given case which might come before it, would have either to give second place to the relationship established on the loss in weight or would have to apply the recognized principles of rate-making. One or the other would have to give way since they are, as a practical matter, quite inconsistent with one another."

Now, Mr. Jefferson, let me put this to you: Suppose that the regulatory body had a case of this kind before it, and after it had been investigated it was determined that the rate relationship in meat and livestock discouraged processing in the producing area of Alberta -- assume that that was found, that there was a discouragement of the processing in Alberta, due to the rate relationship, and assume that the Board, in wishing to set a relationship that did not discourage the producer location, required that there should be a reduction in the meat rate from Calgary to Toronto of 10¢ and an increase in the livestock rate of 10¢; now, would that adjustment violate the cost-of-service principle or the value-of-service

principle, an adjustment of that order?

A. I don't know that it would; but, Mr. Frawley, the Board of Transport Commissioners has already dealt with the question of rates on meats and packing house products versus livestock from Alberta to Eastern Canada.

Q. I know, we have had all that, and---

A. Just a minute. And they have said that the tariffs were all right.

Q. I know, Mr. Jefferson, that you want me, and I want to get through with my work as expeditiously as possible, so, with every respect to you, I would just like to have you answer the question, and when you find it is quite necessary to add something, very well; but I know about the judgment in that case. I am simply asking you now whether you thought an adjustment of that order would violate those recognized principles, as you have called them. Now, the decrease itself of that order could not offend against the rate structure, because the---

A. The what?

Q. The decrease in the rate on meat; because you are making lots of reductions in rates every day, to meet competition, aren't you?

A. Oh, not today; we are making very few reductions.

Q. Well, you have in the past?

A. Very few, if any, reductions.

Q. You have made lots of reductions?

A. If you stick to the present, Mr. Frawley---

Q. You are not making any reductions at all? You are not saying you are not making any reductions?

A. Very, very few, if any.

THE CHAIRMAN: You are talking of this same industry?

MR FRAWLEY: I am just speaking generally of

making reductions to meet competitive conditions.

THE WITNESS: We might, but in very, very few instances.

MR FRAWLEY: Q. And when you have to make them you do not worry whether or not it offends the cost-of-service principle or the value-of-service principle, if you feel that you have to reduce the rate to hold the business or get the business?

A. I want to make sure that I am going to make some money in handling the business at the rate I am making.

Q. A fair inference from that, Mr. Jefferson, surely, is that you are willing to violate the value-of-service principle and the cost-of-service principle when you have to meet competition, but that you are not willing to violate those recognized principles to stop the flow of raw materials out of Alberta; isn't that a fair question?

A. No. All I say , Mr. Frawley, is, we have rates today on meats, packing house products and livestock from Western Canada to Eastern Canada; maybe the livestock rates are too low -- I don't know -- but I think we have shown in our submission that the livestock rates are low; they are very low. Now then, if you---

Q. They are very low, yes.

A. And if you increase the rates on meats and packing house products, reduce the rates on meats and packing house products 10¢, increase the rates on livestock 10¢, I don't know whether we would get the same amount of money on the traffic we are getting todayor not.

Q. I am simply putting to you this, that you feel that to establish this relationship that we have been advocating would violate these principles, the cost-of-service principle and the value-of-service principle, to the extent that they are used today in rate- making?

A. Do I think they do violate it?

Q. That they would; you feel that the establishment of a neutral relationship of the kind we have been speaking of in our submission -- you say that the establishment of that relationship would violate the recognized rate-making principles; that is what you say?

A. I am not saying that at all, no.

Q. Well, Mr. Jefferson, I really thought that was very much what you said.

MR EVANS: Professor Stewart said the same thing.

MR FRAWLEY: Now, please!

Q. On page 15522:

"One cannot have the relationship based on the loss of weight in the manufacturing process, and also apply the recognized principles of rate- making as I have described."

I put that to you, that that is the foundation of your attitude toward this submission of Alberta as to a producer location?

A. Mr. Frawley, if you would let me make a little statement: I do not see how you are going to observe this neutral relationship or critical relationship or whatever you want to term it on livestock, processed fresh meats and packing house products from Alberta to Eastern Canada when you have got packing plants at Calgary, at Moose Jaw, at Winnipeg and at Toronto, all processing and going to Montreal, and the livestock takes the same rate, whether it is cattle, sheep or hogs, and the percentage derived from cattle is one thing, the percentage derived from sheep is another, and the percentage of product derived from hogs is another, and the loss of the livestock in Toronto, weight of livestock in Toronto, is not the same whether it is cattle, sheep or hogs, and I do not for the life of me know how you

would ever carry into practice what you are talking about.

Q. All right. Now, Mr. Jefferson, that is no surprise to me. We quite appreciate that the Canadian Pacific Railway does not go along with us on this submission that we are making; so now we have your reasons for it. Now, I am simply putting to you, that when you are willing to let the cost-of-service principle and the value-of-service principle go by the board when you feel compelled to reduce rates to meet competition, when you are willing to do that -- and you do that every day, do you not?

MR EVANS: Who said so? No such thing.

MR FRAWLEY: Q. I am putting to you, Mr. Jefferson, that that is what you are doing when you are reducing rates to meet competition.

Mr. Chairman, I simply cannot have Mr. Evans' interruptions, or I cannot proceed with my cross-examination. It is very difficult.

THE CHAIRMAN: Let Mr. Jefferson answer the question. You are putting it to him as if somebody had already submitted that. Put it again.

MR FRAWLEY: Q. I put it to you that you feel that you cannot violate the recognized principles of rate-making, you must adhere to the recognized principles of rate-making, and therefore you cannot go along with our suggestion that there should be a rate relationship basis on the loss of weight in the manufacturing process?

A. I say I do not know how I would do it.

Q. You do not know how, therefore you do not go along with that?

A. That is right.

Q. And you say that it would violate the recognized rate-making principles?

A. Yes.

Q. All right. And all I put to you is that as a practical matter every day you are letting those principles go by the board when you are fixing rates to meet competition; is that so or is that not so?

A. If I am making a rate to meet competition I may, as you say, violate it, but I am going to make sure I am going to make some money, but if I violate it on a competitive movement from A to B I cannot violate it on everything that moves in this country. If I am going to do what you suggest on livestock versus meats and packing house products, I do not know where it would end.

Q. Now, Mr. Jefferson, on the same page 15522, Mr. Carson in his question asks you:

> "Have you any practical way of illustrating some of the way in which this proposal would fail to give effect to the recognized principles of rate-making?"

Now, you make him an answer which I suggest to you you might want to clarify at this time. Would you just tell me now---

A. Read the answer.

THE CHAIRMAN: What was the answer?

MR FRAWLEY: The answer was -- I will read it while Mr. Jefferson is going over it:

> "Yes, sir. I think I could say this, that as a general rule, raw material provides a heavier loading per car. This is one of the reasons which justifies a lower rate on the raw material as compared with the manufactured article. In the case of livestock and fresh meats, however, the average loading per car of the raw material, that is, the livestock, is generally lower than the loading per car of fresh meats and packing house products."

Q. I suggest to you that you may want to explain that contradiction.

A. What is there to explain?

Q. Well, you tell us that as a general rule, raw material provides a heavier loading per car?

A. That is right.

Q. And that is one of the reasons which justifies a lower rate on the raw material?

A. That is right.

Q. Well, in the case of livestock and fresh meats, however, the average loading per car of the raw material, that is, the livestock, is generally lower t --- not heavier, but lower?

A. That is right; that is a fact.

Q. Then how in the world can you use that example as being an illustration of the way in which the proposal would fail to give effect to the recognized principles of rate- making? I just thought you might want to say something about that, Mr. Jefferson.

A. No, sir.

THE CHAIRMAN: Q. How do you explain that, Mr. Jefferson?

A. Well, it is a well-known fact that livestock loading is a light loading commodity. Now, fresh meats and steers might load to about the same weight, because the minimum on meats is 21,000 pounds, and on cattle the minimum is 22,500, but when you get to packing house products the minimum on hogs is only 16,000 pounds, and I think lambs are less than that; I think it is 14,000 pounds. Well, the minimum weight on both meats and packing house products is greater than on the livestock. The instance of livestock versus fresh meats and packing house products with respect to minimum weights on the raw

materials and the finished products is quite the reverse from the general situation with respect to movements of other commodities -- quite different. We cannot deny that fact.

MR FRAWLEY: Q. Mr. Jefferson, would you look at volume 67, page 13947, and would you look at page 56 of your appendix, please. Now, you note at that page of the transcript that the revenue per ton mile on iron billets from Hamilton to Montreal is 71¢?

A. .71.

Q. Yes, .71¢?

A. Yes, sir.

Q. Against an average for Eastern Canada of 1.27. That appears at the bottom of page 13946.

A. What's that?

Q. I say you say at the bottom of page 13946 that the average revenue per ton mile for all traffic in Eastern Canada is 1.27?

A. Oh, yes.

Q. And the revenue per ton mile on the iron billets from Hamilton to Montreal is .71¢?

A. Yes, sir.

Q. Now, is it your view that inspite of the low ton-mile earnings, this competitive rate is compensatory, because it yields car-mile earnings, as the exhibit shows, as page 56 of the appendix shows, of 40.5¢ against the average for Eastern Canada of 36.3¢? -- and, for the record, that is at page 74 of Part I. Is that why you say that it is compensatory?

A. I say that the rate on the billets and blooms from Hamilton to Montreal, that is, the water competitive rate on billets and blooms from Hamilton to Montreal, yielding 40½¢ per car mile, is a compensatory rate.

Q. You say that because on the whole the car-mile averages are more significant indications of the compensatory nature of a rate than the ton-mile rate?

A. In that instance, yes, sir.

Q. Well, is that not generally so?

A. Well, it all depends on the commodity and the weight and the loading.

Q. All right. Now, the ton-mile earnings at any givenrate would be the same, wouldn't they, whether the car moved a pound of freight or a hundred thousand pounds, in every car? That is so?

A. The ton-mile---

Q. The ton-mile earnings at any given rate would be the same?

A. But you would not get it.

Q. No; I saythat the ton-mile earnings would be the same if you moved one pound of freight in a car?

A. Well, mathematically, but it would not be in practice, because you would not get the rate unless you loaded the car up.

Q. All right.

A. It is not applicable.

Q. I am only pointing out the fact that it is not as significant an indication as the car-mile earnings, that is all?

A. For heavy loading commodities it may not be a complete indication.

Q. Well, now, will you turn to page 13948, then, Mr. Jefferson, because at that page you state that the car-mile earnings on automobiles from Windsor to Toronto of 22.2¢---

A. Windsor to Montreal.

Q. Windsor to Montreal, of 22.2¢, is considered to be compensatory, for the reason that the ton-mile earnings

are 4.17¢ against the average ton-mile earnings in Eastern Canada of 1.27¢?

(Page 16073 follows)

A. Yes, sir; but I think you have got to give some consideration there -- I don't know how much -- to the fact that in the case of automobiles you are hauling 10,657 pounds and in the case of billets, 113,900 pounds.

Q. Tell me, Mr. Jefferson, if you haul automobiles 1800 miles instead of 567 miles, as you do haul them from Windsor to Montreal, would the rate be compensatory if you could obtain as favourable a car mile earning as 22.2 cents?

A. Not if I could get more.

Q. If you could get 22.2 cents car mile earning would you consider the rate to be compensatory for 1800 miles?

A. I wouldn't say so because here this is a competitive rate; it is a depressed rate, our normal rate is higher.

Q. But you do say that it is compensatory? You say it is a compensatory movement?

A. But not as compensatory as if it were higher.

Q. No, that is obvious; but you say it is compensatory because you rely on ton mile earnings. I am simply putting it to you, that if you hauled automobiles 1800 miles instead of 567 miles, and you got 22.2 cents car mile earnings, you would feel the rate was compensatory?

A. If there was some competitive reason justifying the rate, I might.

Q. What difference would it make? You are satisfied with the 22.2 cents?

A. I won't admit that we should measure normal rates by what we have to do on competitive rates.

Q. Suppose that you hauled the automobiles at first class rates from Windsor to Montreal . . .

A. Yes, sir.

Q. I put it to you that the earnings per car mile would only be 24.6 cents?

A. I know.

Q. Just 2 cents or a little better than the competitive rate?

A. I have that here; I know there is very little difference, because automobiles take a first class rate -- passenger automobiles take a first class rate, and the load per car is light.

Q I only call your attention to it, Mr. Jefferson, because you kept telling me it was a competitive rate. Now, when you look at the movement of automobiles at a first class rate your earnings per car mile are practically the same?

A. I could tell you that in a moment, but you are very close; I know that.

Q. I think you have an exhibit covering it?

A. Here it is. . .

Q. Do you see it there on page 75 of Part I? You are only checking my figures; it is $1.31 per hundred pounds, Mr. Jefferson. It is right here in the second last paragraph, $1.31 per 100 pounds, and that has been calculated at 24.6 cents per car mile. If you will accept that . . . ?

A. I shall accept that, but I don't know whereit is; yes, sir.

Q. Now, Mr. Jefferson, let me get on with my questions. Can it be assumed from that, that all automobile traffic on railways in eastern Canada, whether competitive or non-competitive, is carried at car mile earnings substantially below that of the average car mile earnings on all traffic?

A. Oh, yes. I mean the car mile earnings

on automobile traffic is not up to the average by reason of the light load.

Q. There are no better automobile rates?

A. What do you mean by no better?

Q. To you?

A. You mean higher?

THE CHAIRMAN: What did you say?

MR. FRAWLEY: Q. That there are no better automobile rates: no higher or lower, than those you have given us.

A. Between Windsor and Montreal?

Q. No, on any other movement. I am suggesting now that on automobile traffic generally in eastern Canada all automobiles are carried at this kind of car mile earnings?

A. All automobiles moved in eastern Canada are at first class rates, unless there are commodity rates for competitive reasons that are lower.

Q. I am putting it to you, Mr. Jefferson, you have told us what your earnings per car mile were when you moved automobiles from Windsor to Montreal at competitive rates?

A. Yes.

Q. And when you moved automobiles from Windsor to Montreal at non-competitive rates. You have told us it was 22.2 cents in one case, and 24.6 cents in the other?

A. Yes.

Q. I am only asking you if you have any better rate, or any better per car mile revenue in eastern Canada on automobiles?

A. We have some that are better, yes.

Q. Where are they?

A. I have a few examples here. The passenger automobiles and the -- I don't know whether they are first

class rates or commodity rates for all the movements, but they are movements of passenger automobiles from Windsor to points in eastern and western Canada; the car mile earnings at 10,000 pounds run from 18.7 cents a car mile to a high of 35.2 cents a car mile; that is passenger automobiles.

Q. Now I want to call your attention to what you have said about the rate on coal from Drumheller. At page 84 of the Appendix you show that the revenue per car mile on coal from Drumheller to Sudbury, a distance of 1768 miles, is 23.3 cents?

A. Yes, sir.

Q. That is greater than the per car mile earnings on automobiles from Windsor to Montreal?

A. You mean the 22.2 cents?

Q. Yes?

A. Yes, sir.

Q. And it compares with the car mile earnings on grain from Regina to Fort William of 25.5 cents, does it not? That appears from Exhibit 163, for a distance of 776 miles. I put it to you, Mr. Jefferson, you are saying the coal rate from Alberta to Ontario is non-compsnsatory, although the car mile rate is better than the competitive automobile rates in eastern Canada, and almost as good as the non-competitive rates on automobiles in eastern Canada; and it moves for over three times the distance. That appears from the tables you have filed.

A. I don't think there is any comparison between car mile earnings on automobiles and coal.

Q. I am suggesting to you that that is the fact?

A. Yes . . .

THE CHAIRMAN: Q. Why is there no comparison?

A. Because automobiles are such a light load

commodity; they are only 10,000 pounds, while coal loads at 50 tons, or 100,000 pounds.

Q. Is the hauling then more expensive to the railroads to handle automobiles?

A. It costs more to haul 100,000 pound car than a 10,000 pound car.

Q. How much?

A. I don't know.

Q. You must tell us these things.

MR. FRAWLEY: Q. How much more?

A. I don't know.

Q. You have no idea how much more?

A. No, sir.

Q. You have shown that the average car mile earnings in eastern Canada were 36.3 cents in 1948.

THE CHAIRMAN: Where is that?

MR. FRAWLEY: That appears --

THE CHAIRMAN: If you mean the transcript, I have it here.

MR. FRAWLEY: It is in the brief at page 74.

COMMISSIONER ANGUS: Which part?

MR. FRAWLEY: Part I.

Q. 36.3 cents in 1948. Now can you tell me where in eastern Canada are the rates that are below the average, if they are not in the competitive rates which you have shown on pages 56 to 61 of the Appendix? Where are these rates in eastern Canada that are below the average?

THE CHAIRMAN: Are you taking for the average the system figure of 35?

MR. FRAWLEY: No, in eastern Canada, sir.

THE CHAIRMAN: That is 36.3.

MR. FRAWLEY: Yes, 36.3 cents.

THE WITNESS: We know, Mr. Frawley, that the per car mile yield on some traffic must be below 36.3, and some must be more than 36.3, to determine an average of 36.3. Now you ask me what commodities the yield is less than the average of 36.3.I can't answer that question. I know the one instance of at and east grain was below the average. I haven't analysed every movement of traffic to determine what traffic is below 36.3 and what traffic is more than 36.3.

MR. FRAWLEY: Q. Will you look at sand that you move from Paris to Toronto, on page 57 of the Appendix?

A. Yes.

Q. That is a rate that is based on 70.8 cents per car mile?

A. Yes, for a very short haul of 71 miles.

Q. Even though the rate is only four and a quarter?

A. That is right.

Q. I am simply putting to you that it would appear to follow that non-competitive rates on similarly low value commodities are well above the average car mile earnings?

A. Say that again.

Q. The competitive rates on that sand. . .

A. Yes.

Q. It would appear to follow that the non-competitive rates on similarly low value commodities are equally well above the average car mile earnings?

A. I wouldn't say that follows at all; it depends on the distance you haul.

Q. That is true. Can you tell me where then in eastern Canada these rates are that are below the average?

A. I said I could not. You can go on with these comparisons forever and ever, but you have got to take the actual movements and find out what they are. I haven't attempted anything of that sort.

Q. Are you implying that because they are below the average they are non-compensatory?

A. No, not necessarily; it depends on how much below.

Q. That is true, and you are not able to point out where they are, that are below?

A. No. There has got to be some below to get the average.

Q That is right. Now, Mr. Jefferson, I want you to look at the interline rates on cement; I wish to ask you something about the meaning of a word in the Railway Act.

THE CHAIRMAN: What section?

MR. FRAWLEY: Section 336.

Q. Section 36 reads:

> "Where traffic is to pass over any continuous route in Canada operated by two or more companies, the several companies shall agree upon a joint tariff for such continuous route. . . "

What do you understand by that term "continuous route"?

A. I don't know.

Q. You really mean that after all these years of living with rates?

A. A continuous route is a route by which you can carry the traffic, I suppose -- a continuous route from A to B over two or more railways.

Q. Would it be the movement of cement from Exshaw on your line to Vermilion, Alberta, on the Canadian National line?

A. Yes, I would say so.

THE CHAIRMAN: Q. In the first place, this is a section which calls for agreement between the carriers. It says they "shall agree upon a joint tariff".

MR. FRAWLEY: Yes, they shall agree on a joint tariff.

THE CHAIRMAN: Can you fix where they have agreed and bring us back to where there is a continuous route?

MR. FRAWLEY: Yes, I can give the witness an example of that.

Q. Let me ask you if a movement of brick from Redcliff , Alberta, to Vermilion would be a continuous route?

A. It could be.

Q. As much so as the one from Exshaw?

A. Yes, sir.

Q. Does the expression "continuous route" refer to any interline movement between the Canadian Pacific and Canadian National, or any other Canadian railway?

A. It may; I don't know. I am not going to get into the legal end of this interpretation of the Railway Act.

Q. Tell me, Mr. Jefferson, could it be one over which no rebilling is necessary?

A. Well, you might have a joint rate and still rebill; it depends on the settlement, whether you have an audit office settlement or a junction point settlement.

THE CHAIRMAN: Pardon me a moment. After all, it may be that the words "continuous route" have been interpreted.

MR. EVANS: Yes.

THE CHAIRMAN: What are the interpretations?

(Page 16082 follows)

[illegible] would [illegible].

THE CHAIRMAN: [illegible] in the [illegible] place that [illegible]

[illegible] they 'shall serve [illegible] joint traffic'.

MR. BRIMLEY: Yes, they shall serve [illegible] credit.

[illegible]

[illegible] brings us back to whether it is a continuous route.

MR. BRIMLEY: [illegible]

Q. Let me ask you if a movement of [illegible] Rodolit? , Albert[illegible] to Vermilion would be a continuous route.

A. It would be.

[illegible]

[illegible] continuous [illegible] between the Canadian Pacific and [illegible]

A. It may; I don't know. I am not going to get into the legal end of this interpretation of the Railway Act.

[illegible]

Q. Well, you might have a joint [illegible] settlements [illegible] you [illegible]

THE CHAIRMAN: Pardon me a moment. After all, it may be that the words "continuous route" have been [illegible].

MR. [illegible]:

THE [illegible]:

[illegible]

MR. EVANS: There are Cases on the question. Our own Brief at page 84 of Part II refers to one decision. I don't know whether it actually defines those very words, but the whole question is discussed there.

THE CHAIRMAN: Part II, you say?

MR. EVANS: Part II, page 64, our Section on Interline Rates.

THE CHAIRMAN: Then this "continuous route" is the kind of route on which interline rates apply?

MR. EVANS: Yes, those are the interline rates in the Act, and the extent to which they impose an obligation which is the very question Mr. Frawley is putting to Mr. Jefferson. They determine how far we are bound by law to put in interline rates and what Mr. Jefferson may think of the interpretation of that language, does not make a particle of difference because the Board has interpreted it, and if the Board has misinterpreted it, the Supreme Court can put them right.

MR. FRAWLEY: Now, Mr. Jefferson, are we to leave it then, that you have no views on the subject of what is a "continuous route"? You would agree with that suggestion?

A. I have no views to express.

Q. You have no views to express on what is the meaning of "continuous route"?

A. No.

Q. Is there such a thing as an interline route, a route between you and the Canadian National which is a continuous route and one which is not?

Can you point to one interline route between you and the Canadian National where there is a continuous route and another where there is not? Is there any distinction?

A. No.

Q. Now, there is now a joint tariff on cement from Exshaw, a local exclusive Canadian Pacific point, to Canadian National stations in Western Canada?

A. Yes, sir.

Q. Prior to that tariff, is it a fact that the rate payable was the full local rate on the Canadian Pacific from Exshaw to Calgary plus the full local rate on the Canadian National from Calgary to Vermilion,, using Vermilion as an example?

A. Yes, sir.

Q. Now, did the publication of the joint rate mean any benefit to those people located at the Canadian National point who paid the freight on those shipments from Exshaw? Did it mean any benefit, monetary benefit, to the people who received freight at Vermilion before you published the joint tariff and after you published the joint tariff?

A. I don't understand so, no.

Q. Even more plainly than that, they do not, Mr. Jefferson?

A. Yes. All I want to say is, that the tariff on cement from Exshaw to Canadian National points is published by agreement between the Canadian National and the Canadian Pacific and the shipper interested, and no one is complaining about the rates

on cement.

Q. Who is complaining about them?

A. No one.

Q. I am complaining, Mr. Jefferson, if that means anything.

THE CHAIRMAN: Could you tell me what your complaint is?

MR. FRAWLEY: Cement moves from Exshaw, a Canadian Pacific point, to Vermilion, a Canadian National point. It goes part way on the Canadian Pacific and then on the Canadian National, and the rate is, we will say, $1.00 and that is purely a sum of the two local rates. There is nothing reduced at all because of the joint tariff being put in, and cement moves from Exshaw, that same Canadian Pacific point, to a place equidistant from Exshaw but on the Canadian Pacific - -

THE CHAIRMAN: What place?

MR. FRAWLEY: Almost any place - Lloydminster or Medicine Hat. Now those are exclusive Canadian Pacific points and the rate which the receiver on the Canadian National line pays on that same distance is more, something like 10¢ or 15¢ more, than is paid by a man who receives it on the Canadian Pacific.

THE CHAIRMAN: The joint rate then, is greater than the single rate, if you can put it that way?

MR. FRAWLEY: In that instance, yes. The joint rate is nothing more nor less than the combination of the two local rates.

THE CHAIRMAN: Now, this Section 336 compels the railways to provide joint rates based on what these "continuous routes" are?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Is there any limitation in that Section or elsewhere about the amount of the joint rates?

MR. FRAWLEY: I do not so regard it. In fact, Mr. Jefferson thinks that this rate which I have just described was approved by the Board. I am not saying whether or not it is excessive, but whatever it is it was fixed jointly by the two railways and approved by the Board.

THE CHAIRMAN: Now, what would you have provided instead of that - a prohibition to charge more in the case of a joint tariff on a continuous route than between any two points of the same distance on a single line of railway?

MR. FRAWLEY: I say there should be some amelioration of the two local rates.

THE CHAIRMAN: Would you bring that about by amending 336? It seems to me that is where it ought to be, if anywhere.

MR. FRAWLEY: I think, sir, I think perhaps in 336 or some Section in that general part of the Act.

THE CHAIRMAN: Will you look into that?

MR. FRAWLEY: Yes, I will give consideration to it. The Board approved of this rate, of course. Now, probably the approval should have been withheld when there was no benefit at all which resulted from

the filing of the joint rate.

THE CHAIRMAN: Yes, but unless you want us to limit the powers of the Board or otherwise deal with the question that there may be some compulsion, what else can be done?

MR. FRAWLEY: Except, my lord, that that brings me back to what I have said.

THE CHAIRMAN: Do you want us to admonish the Board?

MR. FRAWLEY: I would not call it admonishing. I do think there might be recommendations short of recommendations for changes in the legislation which would indicate the views of this Commission. Apart from recommending changes in the legislation, there might be recommendations expressing the views of the Commission.

COMMISSIONER ANGUS: Would not such a recommendation be argued before the Board?

MR. FRAWLEY: I think so, but I am bold enough to say that what will come from this Commission will, of its own weight, have merit in the eyes of the Board. That is my own personal view at any rate.

THE CHAIRMAN: Do I understand that you are not asking that we should go any further than that?

MR. FRAWLEY: In this particular instance I think that is my submission.

THE CHAIRMAN: You do not intend then to propose any amendment to Section 336?

MR. FRAWLEY: Probably not, as I am

presently advised, but I want to point up something which I think will illustrate what I am endeavouring to bring out.

Mr. Jefferson, is there a joint tariff on brick from Redcliff Alberta, which is an exclusive Canadian Pacific point, to Canadian National stations?

A. There may be to some points.

Q. To some points and not to others?

A. That may be.

Q. Can you do any better than that for me - "there may be"? Do you know in fact whether there are any joint tariff rates on brick from Redcliff to Canadian National stations?

A. I cannot say without looking up the tariff, but we may have some rates on brick from Medecine Hat to Canadian National points where the rates are required.

THE CHAIRMAN: Before we proceed with brick, let us get back to cement for a moment. You say in a certain case that the Board approved a joint rate. Was that a contested case before the Board?

MR. FRAWLEY: I will have to ask Mr. Jefferson. What Mr. Jefferson said was, that the joint tariff which he told me is now in effect was approved by the Board.

THE WITNESS: No, sir, I did not say that.

Q. I thought you said it had been approved by the Board?

A. I said the tariff was published by agreement between the Canadian Pacific and the Canadian National Railways and the shippers.

Q. But it was surely approved by the Board after all that was done?

A. It was filed with the Board and accepted by the Board and to my knowledge no shipper or consignee has ever complained of the rates.

Q. We must not quibble about the word "approved". You do not regard that as an approval by the Board - simply acceptance of a tariff by the Board?

A. Accepted by them because we filed it and no one has ever complained about it. So it was not approved by the Board, not in the sense that a standard mileage tariff is approved by the Board. It was accepted for filing.

Q. Was it approved at all?

A. The Board does not approve any tariffs except standard mileage classifications and demurrage.

Q. Well, we will leave it at that.

THE CHAIRMAN: There was no opposition?

MR. FRAWLEY: It obviously was not opposed.

THE CHAIRMAN: Where you have two railways and the shipper agreeing, I suppose prima facie that would be a reasonable rate?

MR. FRAWLEY: And the shipper, the shipper being the Canada Cement Company. How about the receivers all over Alberta and Saskatchewan, they just take it?

THE WITNESS: They have never complained.

THE CHAIRMAN: Is there any reason why people who do not think it reasonable are prevented from applying to the Board to change it?

MR. FRAWLEY: No, that is right, sir.

THE CHAIRMAN: Have you done that in your case?

MR. FRAWLEY: No, sir, I am presenting these things from the standpoint of principle.

THE CHAIRMAN: I just asked you that as a matter of fact.

MR. FRAWLEY: Whether the Province of Alberta officially, the Government of the Province of Alberta have done it?

THE CHAIRMAN: Yes.

MR. FRAWLEY: No, I am pointing out anomalies made up by saying that the handling of traffic where there is a change of railways on this continuous route is more expensive than on the direct route. I want to develop it and examine Mr. Jefferson with respect to the situation in regard to brick from Redcliff and cement from Exshaw.

THE CHAIRMAN: Then we will take five minutes.

....RECESS

...UPON RESUMING

MR. FRAWLEY: Now, Mr. Jefferson, I want to ask you about brick. Is there any joint tariff on brick from Redcliff Alberta, which is an exclusive

Canadian Pacific point, to Canadian National stations?

A. Not to all stations, no , sir. There might be rates from Medicine Hat and Redcliff to some specific destinations on the Canadian National; I don't know.

Q. I don't want to press you unduly on it, but you are not able, at least now, to indicate any?

A. No joint tariff, no, sir.

Q. And it might be there are none at all to any Canadian National stations?

A. That may be.

Q. Now, did you ever negotiate or endeavour to agree with the Canadian National under Section 336, upon a joint tariff on brick from Redcliff to Canadian National stations?

A. We may have negotiated individual rates.

Q. On brick?

A. Yes, sir.

Q. But you cannot recall any that you have negotiated to the extent of establishing a joint tariff?

A. I don't know why you would want a tariff on brick from Medicine Hat and Redcliff to all stations on Canadian National Railways.

Q. Mr. Jefferson, it is not a matter of what I want or do not want. I am only asking you a few questions about it. Do you know of any agreement between yourselves and the Canadian National or any attempt to agree to establish a joint rate on brick

from Redcliff to Canadian National stations such as you have told us about this morning in the case of cement from Exshaw.

A. Not any general joint tariff on brick from Redcliff or Medicine Hat to all stations on the Canadian National Railways.

Q. Now, the result is that the rate on brick from Redcliff is the full combination of the local rates less one cent for each factor, namely, less two cents as you have noted yourself in your Exhibit 173?

A. Yes, sir.

Q. So now then, Mr. Jefferson, this is what we have as a result. In the case of the cement rate from Exshaw, you have adhered to the full letter of Section 336, and you have established a joint tariff, and there we find there is no difference in the rates at all. The full combination of the Canadian Pacific local and then the Canadian National local rate is what is charged without any reduction?

A. That is right.

Q. Whereas, in the case of the brick mileage rates from Redcliff where there has been no agreement to establish a joint tariff and no joint tariff filed under Section 336, we find that the shippers do obtain reductions of 2¢ below the straight combination?

A. They have a reduction according to the size of the rate.

Q. It is 2¢ in many cases. I should have said that.

A. That is right.

Q. So that the shippers are actually worse off rate-wise where Section 336 is complied with than where no attempt was made to establish joint tariffs. That is so, isn't it?

A. From what you say, yes.

Q. Now, in Volume 76, page 15410, you say that the railways, about the middle of the page:-

"The railways establish joint interline rates wherever there is the necessity for it. This is the policy of the railways."?

A. Yes, sir.

Q. Does that mean that the railways determine when a joint interline rate is necessary, and when it is not?

A. Yes, sir.

Q. Now, at page 88, and in the Transcript copy the same Volume, Mr. Jefferson, page 15424 in Volume 76, at the bottom of the page, you say :-

(Page 16091 follows)

"There is also involved in multiple-line hauls the cost of transfer at the interchange point . . ." Now, I want to ask you about that. Are there any appreciable differences in transfer costs at an interchange point other than those that you have at a single-line junction point?

A. What do you mean by single-line junction point?

Q. Well, you have junction points on your railway where you break down trains and make them up again?

A. That may be.

Q. Now, when you do that, costs are involved, I take it?

A. You get the full rate.

Q. Yes, but I just say, Mr. Jefferson, costs are involved in that kind of operation?

A. But you get the full rate, Mr. Frawley.

Q. What's that?

A. You get the full rate.

Q. You certainly get the full rate on the cement from Exshaw?

A. That one instance, yes.

Q. Are there any appreciable differences in transfer costs at an interchange point that you speak of than there are at the junction point? I don't suppose you would say there was any appreciable difference, would you?

A. There may be some, but nothing appreciable, except this -- well, I suppose even at junction points on the one railway you have got to have tracks to put the cars, got to have interchange tracks.

Q. Are you saying, Mr. Jefferson, that the existing differences between single-line and interline rates represent actual costs of transfer?

A. The difference between---

Q. Yes; the differences that there are today between single-line rates and interline rates represent the actual costs of transfer?

A. I would not say it is only the actual costs of transfer.

Q. You know that in the case of cement moving out of Exshaw you can find that there is as much as 10 and 15 cents difference between points that are only a few miles away across country, from one line of railway to the other, equidistant from the plant?

A. Yes.

Q. And I am just putting to you whether or not that 10¢ or 12¢, as the case may be, represents the actual costs of transfer; I just want to know whether you are saying that or not?

A. No. We all know two-line rates should be higher than single-line rates.

Q. Has the Board ever established just and reasonable charges for interchange operations?

A. Not that I know of.

THE CHAIRMAN: While we are on this, Mr. Frawley, can you tell me whether section 337 has ever been invoked?

MR FRAWLEY: Yes, I could ask Mr. Jefferson about that.

Q. You see, Mr. Jefferson, 337 provides a remedy, as it were, when there has been a failure to agree under 336 to establish a joint tariff. Do you know of applications made to the Board complaining about the failure of the companies to agree on a joint tariff?

A. I cannot give any decisions from memory, but I dare say there may be cases where complaints were made to the Board due to the failure of the railways to establish

a joint rate, and the Commission may have prescribed one.

THE CHAIRMAN: I am anxious to know. Can Mr. Evans tell me?

MR EVANS: Well, I am almost sure at the moment that there have been, but, even if there have not been, the Board has acted on its own motion, because there is a discussion in the brief, and I was trying to turn it up as you asked me. In our brief we describe the action taken by the Board to establish interline rates, and there is quite a lot of material in our brief on that very case.

THE CHAIRMAN: Perhaps, Mr. Covert, you have found some case on that.

MR COVERT: According to the only notes I see I have, there was one case that decided that it applied to Dominion railways only and not to provincial. It was a case in which they tried to have a joint rate through a Provincial railway and a Dominion railway, and the Board, I notice, said that they had no jurisdiction over the Provincial road. The other case that I have, I have not the name of it, but I see it is in 22 Canadian Railway Cases at 429:

"Traffic must move on the joint route unless the single route affords a reasonable and practicable one."

Those are the only two cases that I find on the section.

THE CHAIRMAN: Well, I would like to be informed if any other case is found.

MR HART: If your lordship please, I am informed by my traffic adviser that there was one case that comes to his mind, and that was the movement of Malagash salt to Temiskaming. I have no further detail on it at the moment, but perhaps we could provide Mr. Covert with further details, perhaps at the noon break.

MR FRAWLEY: Q. You cannot think of any instances

in your experience, because you would not be interested in the movement of the salt from Malagash, would you?

A. I would to Temiskaming, yes, sir.

Q. You would be interested in getting it after it left Malagash someplace?

A. Well, because it has got to go over the Canadian Pacific Railway to get to Temiskaming.

Q. That is right; so you would get it; and where you got it, at what point you got it, would be a matter of some interest to you?

A. Yes.

Q. Where would be the first place you could get it? At St.Rosalie Junction?

A. I think that is where we do get it.

Q. And the Canadian National might keep it until it got right to North Bay; that would be the other end of the deal, wouldn't it?

A. If they wanted to go there and come back again. Temiskaming is east of North Bay.

Q. Oh, Temiskaming -- not on the T. & N.O.?

A. No, sir.

Q. Now, Mr. Jefferson, what you have said to us a minute ago was that you cannot think of any instances in your experience where there has been a complaint to the Board arising out of the failure of the railways to agree on a joint tariff under section 336?

A. I cannot think of any particular case, but I dare say there are some.

Q. Wouldn't that rather indicate that this business of interline rates is almost exclusively in the hands of the railways from day to day and month to month?

A. Just like every other rate; in the hands of the railways, subject to complaint to the Board.

Q. That certainly makes it quite clear, Mr. Jefferson. Now, Mr. Jefferson, dealing for a moment with interline rates, do you know of any traffic that pays full standard rates -- what I should say, Mr. Jefferson, is, dealing for a moment with international rates---

A. International rates?

COMMISSIONER INNIS: Mr. Frawley, before you leave this question of interline rates: Do I understand that there is an appreciable difference between a single-line rate and a two-line rate in most cases?

A. There is a difference. Now, take in the west, on coal, we have rates on coal from points on the Canadian Pacific to points on the Canadian National. They have rates from points on the Canadian National to points on the Canadian Pacific. Those rates are on the one-line basis plus 2¢ a hundred pounds or 40¢ a ton.

Q. That is to say, some of the locals---

A. No.

Q. Not some of the locals?

A. It is on the one-line basis plus 40¢ a ton.

Q. And each commodity would have its own sort of problem?

A. Each commodity would have its own problem?

Q. Each commodity would be dealt with with separate formulae?

A. Yes, sir. Now, we have rates on lumber from points on the Canadian Pacific to points on the National; they have rates---

THE CHAIRMAN: Q. There again, in the case of lumber, is the joint higher by some---

A. Yes, sir; it is the one-line basis on the lumber plus one or two cents.

MR FRAWLEY: It is one cent, I am informed.

THE CHAIRMAN: Q. One cent per what?

A. Per hundred pounds. That is to say, we will take the coal -- perhaps I can explain it to you more clearly. We will say you have a movement of coal from a point on the Canadian Pacific to a point on the Canadian Pacific, 400 miles. Now, we will say there is a movement from a point on the Canadian Pacific to a point on the Canadian National, which is also 400 miles. Now, the interline rate on the coal is the same as the single-line rate for 400 miles, plus 40¢ a ton.

Q. If you were asked to justify the 40¢ a ton, would you say on account of the movement, the transfer from one line to the other?

A. Yes, sir, and the costs incident to a two-line movement compared with a one-line movement.

COMMISSIONER INNIS: Q. Isn't there some danger that the whole interline rate problem tends to divide the economy into two groups, those which are fortunate enough to be on the same line and those which are unfortunate enough to be not on the same line, and that in some commodities the distinction may mean perhaps a reasonably heavy burden?

A. Well, the best answer I can give to your question, Mr. Innis, is that we believe that we have interline rates where interline rates are required and where there is a necessity for them.

Q. Yes; I am not thinking of that so much as I am of the amount above the single-line rate. The formula, whatever is involved, I have no doubt is worked out at the lowest possible level, but still it is above the single-line rate, and it does mean -- we are not interested in the Province of Alberta or in the railways; we are interested in the problem of government policy, that is to say,

Federal policy, and this does tend to in a sense rend the economy into two parts, that which is fortunate enough to be on a single line and that part of the economy which is straddle the two?

A. Well, so long as no one complains of the joint rates that are in effect, everyone appears to be satisfied with them.

Q. That may be, but I am wondering how far the general reliance on complaints is adequate. Now, I think Mr. Evans was pointing to a question of the Quebec Central, which is almost a part of the Canadian Pacific, and yet there would be an addition in that case. Is that true, Mr. Evans?

MR EVANS: There are certain two-line rates to and from Quebec Central points; it does not follow that they all are.

COMMISSIONER INNIS: But it would mean that a certain region which perhaps has no vocal interests or is unable to organize and present some vocal claim, may be penalized, and I am wondering just how far you can say that because there is no complaint therefore it is satisfactory.

THE WITNESS: Well, of course, I do not think where we have interline rates that the penalty that you speak of is of much importance. Now, I will go back to coal again. Coal goes to what we call line yards, so does lumber, in Western Canada. Now, they can obtain their coal or their lumber from a point on the Canadian Pacific, but for some reason or other they want to obtain it from a point on the Canadian National. Now, they have the single-line rate plus 40¢ a ton. It may be in some instances that the two-line rate from the nearest source of supply is lower than the single-line rate from another source of

supply. You will find that situation in both lumber and coal. It is not always a penalty.

COMMISSIONER INNIS: No, I can understand that.

THE WITNESS: Yes, sir.

COMMISSIONER INNIS: But it does seem to me that it is perhaps to a slight extent a dividing element as between different economies; perhaps in some cases it may be rather serious.

THE WITNESS: I do not know really where it is serious.

COMMISSIONER ANGUS: Q. Do you treat the fact that no complaint is made as evidence that no dissatisfaction is felt, because a complaint would be limited bythe law and by the practice of the Board -- I mean your expectation of getting redress, getting a change? Is the fact that no complaint is made really evidence that the shippers are satisfied?

A. Not necessarily. They may not be satisfied on coal with the single-line basis plus 40¢ a ton, but they think there is no use in complaining about it, because that is the basis, well-established basis. That may be. I cannot answer that, but I do not think the penalty is a large one.

MR FRAWLEY: Q. Just speaking of that, Mr. Jefferson, the situation appears to be that in the case of coal and lumber the railways have found that it was necessary to put the joint rates in?

A. Yes, sir.

Q. And in the case of cement they found that it was not necessary to put it in?

A. We put in a rate on cement the same as on coal and the same as on lumber that was satisfactory to the railways and the shippers and the receivers.

Q. And it was exactly the same rate, you told me this morning, before you put in the joint tariff as after?

A. That may be.

Q. That is right. Now, Mr. Jefferson, following up what Dr. Innis was examining you about, the Canada Cement Company has a monopoly on the manufacture of cement, certainly in Western Canada?

A. Not in Western Canada, no, sir.

Q. No?

A. No.

Q. Well, who else is making cement?

A. They have a cement plant in British Columbia.

THE CHAIRMAN: Q. I beg your pardon?

A. We have a cement plant in British Columbia.

MR FRAWLEY: Q. They cannot compete against Exshaw, can they?

A. Not in the prairie provinces.

Q. Then let us speak about the prairie provinces.

A. But the Exshaw and the British Columbia producer compete in British Columbia.

Q. All right; but I am speaking of the consumers in Alberta and western Saskatchewan; they are supplied exclusively from Exshaw, aren't they?

A. Exshaw or Winnipeg.

Q. Or Winnipeg; and there would be a freight dividing line, wouldn't there?

A. Yes, sir.

Q. So let us say, then, that the Canada Cement plant at Exshaw has a complete monopoly of Alberta and western S skatchewan?

A. Yes, sir.

Q. Now, if a person locates on an exclusive Canadian

National station, he is going to pay more for his cement than if he locates on a Canadian Pacific station, distances being equal?

A. Yes.

Q. It is as simple as that?

A. Sure.

Q. Do you know where Mirror is -- an exclusive Canadian National point just a few miles from Alix?

A. I know it is in that section of the country, yes.

Q. Now, the cement dealer at Mirror told us he could not compete with the man at Alix, because Alix was on a Canadian Pacific point, and the very thing we are talking about, the difference between the single-line rate and the two-line rate, was just enough to take his business away from him at Mirror.

A. How far is Mirror from Alix?

Q. I don't know -- about twenty miles, something like that.

A. He would probably buy his cement in Alix.

Q. No, he would buy it from the cement plant at Exshaw.

A. Yes, but he would buy it through a dealer at Alix.

Q. No, no; I am talking about a yard.

A. Yes, sir.

Q. Talking about a lumber yard; he buys it from the plant, doesn't he?

A. Oh, yes.

Q. Now then, you do not regard that as important? If that instance were multiplied, you do not regard that as important at all?

A. Not as long as it is satisfactory to everybody.

Q. Is it satisfactory?

A. Well, I don't know who it is unsatisfactory to except yourself, Mr. Frawley.

Q. That may be, except somebody representing the consumers of the Province of Alberta. It is already on the record that the Canada Cement Company is not the slightest bit interested.

THE CHAIRMAN: Is what?

MR FRAWLEY: Is not the slightest bit interested in the point. I read into the record a letter of the Canada Cement Company. I asked them -- I make no apologies at all when I say I asked them to join me in supporting me on this cement situation. Oh, no, they said, they did not think the railways would like nor would the Commission like that they should come and present this before the Board.

MR EVANS: That letter---

MR FRAWLEY: The letter is already read.

MR EVANS: But I do not want a misinterpretation of it.

MR FRAWLEY: No, I certainly do not want a misinterpretation of it. The letter was written to me, so I know what I am talking about. That is the kind of situation I am talking about, and I am only suggesting that the mere fact, the accident, of where a man is located in Western Canada has a lot to do -- the freight rates, rather, have a lot to do with where a man is located in Western Canada.

Q. That is so, isn't it?

A. Yes -- not so much as between one railway or the other, but if you are talking about an industry, he is going to locate where he thinks is the best place to locate in the marketing of the product he is going to

produce and in what territory he is going to market.

Q. Doesn't it almost come down to this, that a man is a fool to locate in industry in Western Canada except at a place where both the Canadian National and the Canadian Pacific operate?

A. I would not agree with that at all.

MR EVANS: I think it is rather important that we should know exactly what the Canada Cement Company did say in the letter, and it is rather extraordinary the interpretation which is being put upon it. This is what the letter says:

(Page 16104 follows)

I shall read now from Page 13317 of the transcript:

"Insofar as the general public in Alberta are concerned, our prices are based on a flat mill basis and some years ago in order to put all of our customers on an even basis we scaled the territory out very carefully and made a flat mill basis from our Mill East, West, North, and South. This necessitated a very few increases and a great number of decreases, and in making up this basis it meant a reduction in our net revenue, but we felt that it was much better and fairer for the whole province to have everyone on an even mill basis although it cost us money to do so."

And then, in another paragraph, I read:

"The whole matter seems to be entirely out of our sphere. We accept the rates as set by the railways and we feel that any application of ours to the Royal Commission would not be received with favour by either the railways or the Royal Commission."

MR. FRAWLEY: I put it to Mr. Evans that regardless of the price plan of Canada Cement, if I buy cement 100 miles of Exshaw on the Canadian National, I will pay more freight than if I live 100 miles from Exshaw on the Canadian Pacific.

COMMISSIONER INNIS: The same problem applies to the Canadian National. It is only fair for Mr. Jefferson to suggest it.

MR. FRAWLEY: You mean if the Canadian National had a plant on their exclusive line?

COMMISSIONER INNIS: Yes.

MR. FRAWLEY: Exactly, sir.

THE CHAIRMAN: There are all sorts of disadvantages. Distance itself is one.

MR. FRAWLEY: Yes, of course. That is a disadvantage which the railways cannot overcome.

THE CHAIRMAN: He may have some good reason which induces him to settle 200 miles away.

MR FRAWLEY: That is true.

THE CHAIRMAN: And in the other case again, a man may have a good reason to settle on the Canadian National even though his cement may cost him more.

MR. FRAWLEY: That is true.

THE CHAIRMAN: What is your suggestion?

MR. FRAWLEY: About interline rates; I think they should be more widely practiced and made on a basis which reflects generally an interline rate which would be less than the sum of the two locals. My aim is to get away from the burden of high freight rates.

THE CHAIRMAN: Then what do you want us to do?

MR. FRAWLEY: If this Commission did nothing more than to observe the situation and comment on it in line with my submission, that would be quite sufficient.

I suppose there will be an opportunity for me to say something more about it later.

THE CHAIRMAN: In your argument, of course.

MR. EVANS: Mr. Frawley suggests that the Commission might comment on it. I think he said that his only concern was in pointing out anomalies. Therefore, he expects this Commission, without having all the facts, to make some recommendation.

To me it is impossible that this Commission, without going into all the details of these various rates, as to why they exist, and to know whether somebody was hurt or not, should decide whether there was an anomaly.

MR. FRAWLEY: That is the last word, my lord, in a defeatist argument.

The Order in Council should never have been passed at all in the language in which it was passed.

This Commission is directed to examine into anomalies.

What my friend has just said about cement, he will say about every single problem which has been presented to this Commission since we began: that we must have more facts; and, behind my friend's argument is: Let us go back to the Board. That is what is behind everything he says.

THE CHAIRMAN: We are told, or it is admitted, that there are certain regions where, by reason of economic, geographic and other disadvantages, they are adversely affected by transportation difficulties and by certain anomalies.

Is your region one of these? Has it such economic, geographic, and other disadvantages that it is affected by anomalies in the freight rates?

MR. FRAWLEY: Yes, sir.

THE CHAIRMAN: We are asked later on to review the Railway Act in respect of such matters as a guidance to the Board in general freight rate revisions, such as these international rates, and to recommend such amendments as you speak of.

Is it of much use to come to us and to say: The Railway Act is satisfactory as it is, only we think the Board

should do otherwise than it has been doing?

MR. FRAWLEY: You mean --?

THE CHAIRMAN: I say: Are we really doing justice to the whole inquiry if you come to us and say the Railway Act is all right? 336 is all right. 337 is all right; only we do not like the way the Board administers it?

MR. FRAWLEY: Yes, sir.

THE CHAIRMAN: But you have no amendment to suggest. We are asked to guide the Board by way of recommending amendments to the Act. That is what I am trying to get at.

If we are just asked to express opinions that the Board ought to do this or to say something, it does not cover the point.

But if you have a recommendation from us, then in a given case the parties appearing before the Board could present to the Board our recommendation that they should do this.

Then Mr. Evans might say: That is only a recommendation. I think the recommendation is wrong and you should not pay any attention to it.

Would we be any further ahead?

MR. FRAWLEY: All these things could be put into legislation. When I say that, I do not suggest this particular amendment be put into legislation, because there is a limit to legislating everything into the Railway Act. However, I have an open mind, and on this question of making interline rates, if this Commission should say --

THE CHAIRMAN: The provisions are satisfactory, and you do not want them altered?

MR. FRAWLEY: Not at the moment.

THE CHAIRMAN: Your only complaint must be that they are not administered in the way you think they ought to be?

MR. FRAWLEY: If it were seriously thought that nothing, except a recommendation which was tied into an amendment to the statute, was going to have any attention paid to it at all; if I could be sure of that, then I would come forward with amendments on practically everything.

THE CHAIRMAN: It depends on what you want. Do you want the law in the future to be better than it is now?

MR. FRAWLEY: I certainly want the practice to be better.

THE CHAIRMAN: But if the same law comes back to the same men to practice under, all you would have is another controversy before the Board, and you would ask this Royal Commission to find fault with them and to recommend that they should do otherwise in the future.

The railways would be saying: After all, this in only a recommendation from certain people forming a Royal Commission, and who are not working all the time at fixing freight rates. So we do not think you should pay too much attention to it.

But if you should say: Here is something wrong with the Act which ought to be changed to prevent it from going on, then you would really have something to work on.

MR. FRAWLEY: Might I say that there appears to be a sort of middle course?

THE CHAIRMAN: I suppose we could go on endlessly hearing complaints about the way the Board administers one section of the Act after another; but unless you have some legislative correction to propose --

MR. FRAWLEY: When I speak about a middle ground or middle course, I have this in mind: Let us suppose

there was no amendment recommended at this time, but there was an observation of which my friend complains, an observation, or a comment made by the Commissioners to the Governor General in Council, and it stopped there.

But it was a serious recommendation and it was felt that the matter of the joint line rates should not be left so exclusively to the railways. And then we found that the regulatory body paid no attention to that comment or observation of the Royal Commission.

There would still be Parliament, which sits every year. We could still go back to Parliament and ask them: Please, will you amend the Railway Act?

THE CHAIRMAN: You are sure that you would not ask for another Royal Commission?

MR. FRAWLEY: I think that Royal Commissions are sometimes too infrequent. I think that this one was far too long in coming.

THE CHAIRMAN: As we go along, I intend to continue to ask you if you can really give us any amendments.

MR. FRAWLEY: Yes, sir, I have some prepared now.

THE CHAIRMAN: We dealt with the livestock industry, for example, and with the meat and bacon industry in Alberta.

MR. FRAWLEY: Yes, sir.

THE CHAIRMAN: I take it you would like to see a state of affairs whereby the cattle which are bred in Alberta should be directed to Calgary and other similar points and there turned into meat, and then shipped out into the market?

MR. FRAWLEY: The growth of secondary industry, that is right.

THE CHAIRMAN: Then how far do you want us to help you bring about that state of affairs by legislation?

MR. FRAWLEY: I have an amendment to propose.

THE CHAIRMAN: You have?

MR. FRAWLEY: Oh, yes.

THE CHAIRMAN: Good!

MR. FRAWLEY: Q. Now, Mr. Jefferson, can you tell me whether or not you know of any traffic in the Ontario-Quebec territory which pays full standard rates?

A. Any traffic?

Q. Can you give any examples of any traffic, or any considerable body of traffic, or any traffic, for that matter, which pays full standard rates?

A. Only traffic moving between points where there is no lower class rate, no lower class rate in effect.

Q. That mathematically follows, does it not?

A. Yes.

Q. But could you tell us of any considerable body of traffic which moves on those rates where there is no better special commodity or competitive rate?

A. No, sir.

Q. Do you know of any considerable body of traffic in prairie territory, leaving Ontario-Quebec aside, other than which pays full standard class rates, with the one exception of the rates from the border gateways? Can you give me any examples?

A. No, sir. We have already said that the volume of traffic moving at standard mileage rates between points in Canada is less than 5 per cent.

Q. That is right. That is the over-all picture?

A. Yes, sir.

Q. Then let us look at this particular segment, at Page 105 of Part I of your submission where you say:

"In many cases . . ."

Oh, I'll read the whole paragraph to get the sense of it.

A. At Page 105?

Q. Yes, Page 105 of Part I.

A. Yes.

Q. I read as follows:

"There is no valid reason why the same distributing basis should be granted on merchandise entering Canada from the United States. In many cases such merchandise is in direct competition with similar goods produced at points in Canada."

Is that one of the reasons why you charge the full standard class rate on this traffic?

A. No. That is the basis. You are speaking now of the proportional rates from the United States -- Canadian international border points to destinations in the prairie provinces?

Q. I am speaking of that portion of the rate which is assessed, let us say, against a piece of farm machinery moving from, let us say, Moline, Illinois, to Calgary?

A. Yes.

Q. I asked you whether or not the reason you charge the full standard class rate on that piece of farm machinery from the border gateway to the destination in Alberta, or Saskatchewan, or Manitoba, is because such merchandise is in direct competition with similar goods produced in Canada?

A. If you ask whether we charge standard mileage rates from international boundary points to destinations in Canada on class rate traffic because of the agricultural implement industry, I say no.

Q. That certainly is not an answer to my question. I am not clear what you mean. Let me ask my question again.

I simply put it to you: whether or not the reason why you charge farm machinery moving from United States to Alberta distinations -- the reason why you charge the full standard rates on that portion of the haul, which is yours, is because, as you say at Page 105 of your brief:

"In many cases such merchandise is in direct competition with similar goods produced at points in Canada."

A. The answer to your question is: No.

Q. It is "no"?

A. Yes, sir.

Q. So it is not one of the reasons why you apply it?

A. No.

Q. You are not desirous of protecting and aiding Canadian manufacturers in Hamilton, Brantford and Toronto?

A. If you are considering it anywhere, it has to be with respect to all traffic, it is one of the factors; but I would not apply it alone to agricultural implements.

Q. You said in your brief:

"In many cases such merchandise is in direct competition with similar goods produced at points in Canada."

A. That is just a statement of fact.

Q. And in my case I can apply it to farm machinery?

A. Apply it to anything.

Q. But I am only applying it to farm machinery at the moment.

A. Well, I am going to take everything.

Q. You will take farm machinery if I ask you a question about farm machinery.

THE CHAIRMAN: Q. This impresses me as

having much more bearing than a statement of fact. It was put out for a purpose. That is, there is no valid reason why the same distributing rate should not be granted on merchandise entering Canada from the United States as on merchandise coming from various points in Canada. That is not just an ordinary statement of fact. There is meant to be a reason pointing to something.

A. The whole paragraph, yes, sir.

Q. The whole element of the paragraph is the entering into competition with Canadian made goods. That is a factor which ought to be considered, you say?

A. Yes, sir.

MR. FRAWLEY: Q. This is the reason why you withheld distributing class rates from that traffic and applied full maximum standard rates?

A. I explained that at least once, if not twice, within the last two weeks.

Q. Well, you won't mind explaining it again?

THE CHAIRMAN: Q. You mean what you said was about the international rates and how they are fixed?

A. Yes, sir.

MR. FRAWLEY: Q. It will only take a minute, I am sure, for you to agree or disagree. It is a fact, and may I say it is a fact, that when you say:

> "There is no valid reason why the same distributing basis should be granted on merchandise entering Canada from the United States."

A. Yes, sir.

Q. Do I take it then that the reason why you withheld distributing class rates and applied full maximum standard class rates is because of the fact that they are in direct competition with merchandise, that is, in direct competition

with similar goods produced in Canada?

A. It is one of the reasons, but not all of the reasons.

COMMISSIONER ANGUS: Q. When you say: "no valid reason", was consideration given to whether the Havana charter involved any obligation not to discriminate in railways?

A. No, sir. We say there is no valid reason why the same distributing basis should be granted on merchandise entering Canada from the United States.

We have in western Canada distributing rates from distributing points. I could name a dozen or more, but I will just name Winnipeg, Regina, and Calgary.

Now, distributing rates are rates which are based, in the sense that you are getting a second haul, or another haul on something which you have already received a haul on.

On agricultural implements, and on any other traffic from the United States coming into western Canada, we receive there only the haul to destination, so we say there is no absolute reason why we should apply distributing rates on that traffic.

MR. FRAWLEY: Q. Before I go on with my cross-examination, I want to come back to that very point and to the answer you have just given to Dr. Angus.

Is it not a fact that traffic density to and from border points compares favourably with the traffic density on other lines, except main lines, in western Canada?

A. I do not know. That may be. I do not think that traffic density has got anything to do with it.

Q. Take the border point of Portal. Don't you think there is as much traffic moving from Portal into Canada as moves down into Portal from some distributing centre?

A. Oh, no.

Q. Then let us look at your map. Let us look at Coutts, as a matter of fact.

A. I thought it was Portal.

Q. Very well, Portal. Let us come over to my own province then.

At Page 3 of your appendix you indicate the density of traffic by the use of lines.

A. Yes, sir.

Q. And I put it to you that by looking at Coutts, there is indicated the very plain fact that much more goods move from Coutts to Calgary than move from Calgary to Coutts? Do you think that is so?

A. That may be; but we have not got through rates through Coutts. It is a different situation altogether.

Q. If you find it necessary to add something to each question, all right. But can you answer me and say that there is much more traffic from Couttsto Calgary than there is from Calgary to Coutts?

A. Certainly; but it is not the kind of traffic we are talking about.

Q. All right. I say, nevertheless, that the rate from Calgary to Coutts is 51 cents, while the rate from Coutts to Calgary is 62 cents.

A. What has that got to do with international traffic?

Q. I thought it had everything to do with it.

A. Well, I say that it has nothing to do with it. We do not handle international traffic through the Coutts gateway.

Q. That is what I wanted you to say.

A. Any traffic we handle through the Coutts gateway moves on a combination of locals and it is an isolated movement of traffic.

Q. It is much heavier,as appears from your own map, than what moves down from Calgary; yet you give Calgary the distributing class rates while you charge Coutts to Calgary the full standard rates.

THE CHAIRMAN: Q. You mean, there is no international rate applicable. That is what you are saying?

A. Applicable via Sweet Grass. The only rate we have applicable via Sweet Grass is northbound on crude oil; and southbound on metals and metal concentrates.

Q. On the northbound you have international rates?

A. Yes, sir.

Q. And that is the only one you have?

A. The only one we have of any importance. We have a through rate on crude oil from Montana to Calgary, or Lethbridge, or anywhere else. We do not charge our standard mileage rates from the boundary, and neither do we in the case of metal and metal concentrates going south through Coutts.

MR. FRAWLEY: Now, you have finished telling us that there are no through rates.

THE CHAIRMAN: We shall adjourn now until this afternoon.

---(At 1:00 p.m. the Commission adjourned until 2:45 p.m. today)

(Page 16118 follows)

AFTERNOON SESSION

C. E. JEFFERSON RECALLED

CROSS-EXAMINATION BY MR. FRAWLEY (CON.)

THE CHAIRMAN: Very well, Mr. Hart.

MR. HART: If your lordship pleases during this morning's session I mentioned the question of joint through rates from Malagash to Temiskaming in the Province of Quebec.

I now have some further details on the matter. The Board of Railway Commissioners, on the 27th day of December, 1927, issued Order No. 40081.

The style of cause of the application is:

"IN THE MATTER OF

The application of the Malagash Salt Products Limited of New Glasgow, Nova Scotia, for an order directing the Canadian National Railways and the Canadian Pacific Railway Company to establish a rate of 36½ cents per 100 pounds of salt in carloads, from Malagash aforesaid to Temiskaming and Kipewa Quebec."

And then it goes on in the operative part of the Order, and I read as follows:

"THE BOARD ORDERS that the Canadian National Railways and the Canadian Pacific Railway Company be, and they are hereby, required to establish, effective January 2nd, 1928, a joint rate on salt, coarse or rough in carloads, of 36½ cents per 100 pounds, from Malagash, Nova Scotia, to Temiskaming, Quebec; the rate to be divided 17.7 cents for the Canadian National Railways and 18.8 cents for the

Canadian Pacific Railway Company."

That is a good example of the Board ordering in a rate and also ordering in a division at the same time.

THE CHAIRMAN: Is there anything to show the relationship between that rate and what a straight line rate would have been for the same distance?

MR. HART: I have no information on that; but I have no doubt we could have that information turned up and supplied to you.

THE CHAIRMAN: What is the reference again?

MR. HART: This is just a Board Order. There was no other decision. It is "Order No. 40081"; and it is dated"Tuesday the 27th day of December A.D. 1927".

The reference I have here is volume XVIII of the Canadian Freight Association, No. 1518. I have no doubt it is also to be found somewhere in the J.O.R. & R.Reports.

MR. EVANS: I also have a reference for your lordship.

When I was speaking this morning about the material in our brief, where the Board had actually ordered interline rates in a general matter, I was referring to Page 88 of Part II of our brief.

THE CHAIRMAN: Yes.

MR. EVANS: And you will see at the bottom of the page there is a reference to the report of Mr. J. Hardwell, the Chief Traffic Officer of the Board.

THE CHAIRMAN: Yes.

MR. EVANS: The reference to that case was to

Volume IX J.O.R.& R. at Page 190. That is where the Order is found which is referred to in our brief.

THE CHAIRMAN: I see. Very well, Mr. Frawley.

MR. FRAWLEY: Mr. Jefferson, you told me this morning, that in part, at least, dealing with the application of the full standard class rates on American traffic after it reaches the border entering into Canada, that the fact that you applied full standard maximum class rates was due in part in least to the fact that similar goods were produced at points in Canada.

A. Yes, sir.

Q. I put it to you that that is tantamount to setting up a customs tariff for the Canadian manufacturer.

A. That is not the purpose of it.

Q. I put it to you, and I say this without offence, that your responsibility is limited to charging just and reasonable rates, regardless of the origin or destination of the traffic you handle, so long as it is not contraband.

A. That is right.

Q. Would you agree with that?

A. Yes, sir. We say they are just and reasonable.

Q. And you do not know of any other traffic in western Canada except that traffic which is charged the full maximum rates?

A. No, sir. But I think, Mr. Frawley, you are overlooking Page 85.

THE CHAIRMAN: Overlooking what?

A. Overlooking Page 85 of the Appendix to Part I, where we show that the through rates from Chicago to points in Western Canada based on the rates to the boundary plus the standard mileage rates beyond the boundary are not out of line with rates from Chicago to points of corresponding distances in the western United States.

MR. FRAWLEY: Q. I am quite aware of that. I am simply talking about what you do to the traffic when it enters from lines at the border gateway. I limit myself to that. I want you to look at Exhibit 136.

COMMISSIONER ANGUS: Q. Would your proposal for rate equalization affect the situation at all?

A. As I said in my evidence on equalization of rates, we might adopt the distributing rates from the boundary on the international traffic, if, in the equalization, our revenue would be preserved.

MR. FRAWLEY: Q. But how would you find that out? How would you find out whether your revenue would be preserved? I want to know whether your suggestion is a delusion and snare, to speak jocularly?

A. Oh, no, I said in my evidence that that would be determined from way bill tests which the Board of Transport Commissioners are conducting.

Q. Have you got a copy of Exhibit 136 in front of you?

A. What is it about?

Q. I can show it to you and you can use my copy while the people are getting out the other copies.

COMMISSIONER INNIS: Q. Has the traffic, for example, from eastern Canada to western Canada, increased following the rise in rates, in railway rates in the United States?

A. The agricultural implements rate from eastern to western Canada?

Q. No. I was wondering whether the increase in railway rates in the United States had had the effect of increasing traffic between eastern Canada in Canadian agricultural implements to western Canada?

A. I do not know. But I do know that the rates on agricultural implements from western United States to destinations in western Canada have been increased more than from eastern Canada to points in western Canada.

Q. I was wondering whether that meant there had been increases in traffic in canned goods?

A. There is a movement of traffic from both the western United States and from eastern Canada; but I cannot say that the increase in the rates from the United States by a greater amount than from eastern Canada has caused an increase in the movement from eastern Canada.

But the rates on agricultural implements from eastern Canada to western Canada today are lower than the rates from Chicago to western Canada.

Q. I appreciate that. I was wondering what effect the increase in the rates in the United States had had on Canadian trade. It was not a question of rates.

A. I could not answer your question by saying whether it related in a greater increase from eastern Canada than from western United States points, because there has been a big movement of agricultural implements into western Canada from both the western United States and from eastern Canada.

Q. You spoke about the movement of agricultural implements from Moline, or Chicago?

MR. EVANS: I said that the rates were now so low from eastern Canada that shipments did move from Chicago through Windsor, and took the Canadian routes to Western Canada, because the whole movement from Chicago on that long route was actually cheaper than the movement from Chicago to western Canada.

COMMISSIONER INNIS: I wonder how it could be

cheaper. You told us that these were international through rates?

A. I can explain it to you in this way: back in 1918 or 1919 the Canadian railways gave the eastern implement manufacturers the same rates on agricultural implements to western Canada as from Chicago.

Now, that was done for the shippers and the receivers in the west.

But since 1918, the rates have gone up so much more in the United States than in Canada, that the rates from Chicago today are very much higher than from eastern Canada.

We think the rate from eastern Canada should be the sixth class rate, with the Chicago rate as a maximum.

If we got our full sixth class from eastern Canada to the west, we would have lower than the Chicago rate.

That matter is before the Board of Transport Commissioners today.

THE CHAIRMAN: Q. Are you applying to increase your present rates?

A. We did increase them, sir, and the Board suspended the increase.

Q. The Board suspended the increase?

A. And ,the hearing has been held and we are now waiting for the decision.

Q. That is quite apart from the general increase? The general increase was not made to apply on these shipments?

A. Oh, yes.

Q. But there is still another increase?

A. That is right.

MR. EVANS: We are trying to eliminate the special rate that was put into effect at the request of the government around 1919 or 1920, and to restore the movement of implements from eastern Canada to the sixth class rate, which was the normal position it would occupy.

THE CHAIRMAN: And after that is done, would you apply these recent increases to it?

MR. EVANS: Yes; and we would apply the recent increase to the commodity rate too. But this was a change from the commodity rate over to the class rate.

MR. FRAWLEY: The issue was whether or not it was a competitive rate which they put in at the request of the government in 1919, and therefore they felt they had the right to change it without prior leave from the Board.

THE CHAIRMAN: And that issue has been heard by the Board?

MR. FRAWLEY: Q. Now will you look at Exhibit 136 entitled "Canned Goods - Carloads from Leamington, Ontario, to Calgary, Alberta"?

Quite apart from anything which is shown on this sheet for movements through the United States, I want to put on the record what the all-rail, and also what the lake and rail rates are in Canada; and I put it to you that the rate now on canned goods to Calgary from Leamington and also from Belle River is already $2.59./ Is that right?

A. The fifth class rate?

Q. Well, the rate on canned goods. I put it to you that it is $2.59 from Leamington and also from Belle River to Calgary. That is right?

A. Yes, sir.

(Page 16128 follows)

Q. And that is the rate which would normally apply in the absence of any special circumstances?

A. Yes.

Q. Now, we will get to the special circumstances or special movements. If the shipment went to Vancouver and then was back-hauled to Calgary, the rate would be $1.40 to Vancouver, and $1.12 from Vancouver to Calgary, or a total of $2.52. Is that right?

A. That is right.

Q. And then if it went rail, lake and rail, or perhaps just lake and rail to Vancouver, it could go at $1.37 - 3¢ less than the all-rail transcontinental rate. I think that is right too, isn't it?

A. That is right.

Q. Then, adding the back-haul from Vancouver to Calgary would give you a rate of $2.49. Is that right?

A. That is right.

Q. Now, I will give you another alternative - rail, lake and rail, to Fort William from Belle River or Leamington (now check me if I am not right about this) - take Belle River, rail, lake and rail to Fort William 58¢. Is that right?

A. Rail, lake and rail?

Q. Yes.

THE CHAIRMAN: To where?

MR. FRAWLEY: To Fort William, to the lakehead; in other words, Mr. Jefferson, what I want to get is what the rate would be if it went by water to the lakehead and then to Calgary. I

will give you the figure. See if it is right. My figure is 58¢.

A. Give me the total rate.

Q. $2.42?

A. That is right.

Q. Going by water to the lakehead and then by rail to Calgary?

A. That is right.

Q. Now then, we have these four rates, $2.59 being the published rate with no exceptional circumstances existing , and then rates of $2.43, $2.49, and $2.52 respectively, depending on the back-haul combination from Vancouver and depending on the movement to Fort William and then west?

A. That is right.

Q. Now, I will ask you just one question looking at the table of rates. You will see the rate from Coutts to Calgary (Exhibit 136) is 62¢?

A. That is right.

Q. And that is a fifth class standard mileage rate?

A. That is right.

Q. That is the same kind of rate which is, just in passing, what you apply on the farm machinery when it comes in from the United States also?

A. That is right.

Q. Now, if you apply the distributing rate - -

A. On farm machinery it is the same basis but rates on farm machinery are sixth class.

Q. That is true. Now, if the movement were in

the other direction, if the canned goods were moving from Calgary to Coutts, the distributing class rate wuuld apply, and that would be 51¢ instead of the 62¢ which it takes moving from Coutts to Calgary?

A. I don't know; I have that right here.

Q. I put it to you that it is 51¢. That has been given to me. Mr. Buckingham and Mr. Edsforth could check that, but from Coutts to Calgary if the distributing class rate applied rather than the standard mileage rate, the 62¢ would be 51¢, and if that were so, we would have a total rate of $2.29, using the second column, instead of $2.49.

A. We would have what?

Q. We would have a total of $2.29, the difference between 62¢ and 51¢. Is my arithmetic correct?

A. I think $2.38 is correct.

Q. Yes, that is quite right. It would go down from $2.49 to $2.38. That is right, Mr. Jefferson. Now then, just looking at the picture on an over-all basis, we find, that if canned goods were permitted to go from Leamington - well, taking Belle River, instances from Belle River to Calgary over the United States roads as I have indicated them in the Exhibit, the rates would be $2.40 on a minimum of 60,000 lb. car weight. Do you see that?

A. Yes, sir.

Q. And that that rate could be reduced by 9¢ if (I mean that is just parenthetically) if the

distributing clsss rate applied rather than the standard mileage rate. It could be reduced to - Just excuse me please, and I ask the Commissioners to excuse me as well as the witness. I will just be a moment here. That is where my $2.29 comes from that I had a moment ago. I was looking at the Belle River to Calgary and I am afraid that you were looking at Leamington to Calgary, and it was my fault. I put it to you, that if the distributing rate applied from Coutts to Calgary, that the rate would be $2.29 instead of $2.40 from Belle River?

A. Yes, that is right.

Q. Now, we will just confine our attention to Belle River and save confusion. And you will agree that this a three-factor rate, this rate of $2.40? We will go away from the $2.29 now because that is not realistic, but $2.40 is the actual rate taken from the rate-book?

A. That is right.

Q. Now, that is a three-factor rate, a local rate from Belle River to Detroit, and a transcontinental rate from Detroit to Spokane or Sweet Grass and another standard mileage rate from Coutts to Calgary. It is a three-factor rate?

A. What is this other column here?

Q. It is a different minimum, Mr. Jefferson, that is all, and I am looking at the best rate, the one with the largest minimum. Now, of those three factors, one is a standard class rate. That is right, isn't it?

A. That is right.

Q. And the other two rates, that is, the 28¢ from Belle River to Detroit, and the rate from Detroit to Sweet Grass, those rates have been increased since 1939 to a very appreciable degree?

A. The Belle River to Detroit, and Detroit to Sweet Grass, yes, sir.

Q. Those are rates which have stood an increase and I put it to you yesterday, that it might have been as much as 57% and you corrected me, and pointed out to me that that was an over-all increase, but it is a very appreciable increase in those two rates?

A. Yes.

Q. And I put it to you, that notwithstanding those facts, that one of them is a full standard class rate, that is, the one at the Alberta end of the shipment, and the other two have been increased over 50%, perhaps to be conservative, in the last few years, that notwithstanding that, it betters even your very best rate, that is, by rail to the lakehead, by 3¢ - $2.40 to $2.43?

A. Yes.

Q. And it improves your published rate by 19¢?

A. Well, $2.43 is published as far as that goes, but they are different rates; one is all rail and the other is water and rail.

Q. That is right. Now then, Mr. Jefferson, those rates could be used except for the provisions of the rule which you see at the bottom of the Exhibit, couldn't they?

A. You are speaking now of the $2.40?

Q. Yes, I am speaking of the $2.40.

A. Yes, sir.

Q. And that rule reads--just to put it on the record in this particular apposition --it is Rule 210 of Central Territory Railroads Freight Tariff 260 - D, I.C.C. 3184, and Central Freight Association Tariff 13 - D, I.C.C. 139 and it reads as follows:-

"Rates named in tariff will not apply to form combination rates from points in Canada to points in Canada."

Now, Mr. Jefferson, can you tell me the source of that rule?

A. The source of it?

Q. Yes.

A. No, sir.

Q. You cannot tell it to me?

A. No.

Q. Now, there are other restrictive rules similar to that. That is the rule which one finds in Tariff 13 - D which is the tariff that makes the rate 28¢ from Belle River to Detroit, the restrictive rule I have just read?

A. Yes, sir.

Q. But there are other restrictive rules which accomplish the same thing in other Freight Association Tariffs in the United States?

A. That is right.

Q. For instance, there is one in the Montana Lines Tariff 14 (1)?

A. I suppose that is the tariff from Detroit to Sweet Grass?

Q. It may be; it is one of the carriers that carries the traffic or part of it from Detroit to Sweet Grass. Now, would you know the origin of the comparable item in the Montana Lines Tariff?

A. The origin of it?

Q. The source of it, the origin of it?

A. No, I suppose the Canadian railroads might have asked that it be put in the tariff.

Q. There is not very much doubt in your mind about that?

A. No.

Q. Just to make it clear, Mr. Jefferson, I will read you what the Interstate Commerce Commission advises me with respect to, first, the restrictive Rule number 310 in the Montana Lines Tariff, and this is information which they have received in the Interstate Commerce Commission from Mr. L. E. Kipp. Mr. L.E. Kipp is the gentleman who publishes the transcontinental rate tariffs on behalf of the railways, and Mr. Kipp advised the Interstate Commerce Commission as follows:-

"As previously advised, publication was made on instructions of the Montana Lines. Since the initial publication the Chairmanship of the Montana Lines has changed various times and in many cases papers, particularly on dead subjects, were not forwarded to the new Chairman. However, I have run this matter down

and developed that publication was made on request of Mr. G. C. Ransom, Chairman, Canadian Freight Association, Montreal, as per his letter dated June 19, 1928. The reason for the publication was stated by Mr. Ransom as follows:-

> 'We would explain the necessity for this arises from the fact that Eastern Canadian shippers are now forwarding certain commodities originating in this territory to Detroit, Michigan, the traffic being re-billed from that point to a destination in Montana, and re-billed from there thence to the final destination in the Province of Alberta at a lower combination of rates than the through rate from Eastern Canada to the Alberta destination as published in our Agency Issues' ".

You would not be at all surprised at Mr. Ransom's actions in that regard?

A. No, sir.

Q. In June 1948, Mr. Jefferson, what office did you occupy in the Canadian Pacific?

A. I was Assistant Freight Manager, at Winnipeg.

Q. And if you had then occupied the position which you do now, you probably would have requested Mr. Ransom to write that kind of letter?

A. Someone probably would have.

Q. From the Canadian Pacific or the Canadian National?

A. That is right.

Q. Now, running down the origin of the one which appears in Exhibit 136, that is, the restrictive Rule 210 in Central Territory Tariff 260-D, Mr. C.E. Jensen, a Director of the Interstate Commerce Commission advises me as follows. He first tells me he findsthere is no reason to inquire of Agent Jones at Chicago why the provision which now appears as Rule 210 of his Tariff 260-D I.C.C. No. 3814 was first published. He says:-

"This restriction, it develops, first appeared in Supplement 29 to Canadian Freight Association Tariff no. 13-A, Agent Ransom's I.C.C. no. 43, effective December 16, 1929. 'File 1252' was shown on the corner of the Supplement, which I assume is the file reference of the Canadian Freight Association. The Tariff, which contained rates from places in Canada to places in the United States, was cancelled, on January 22, 1938, by No. 13-B, Mr. Ransom's I.C.C. No. 109. The latter issue was published jointly - that is, as a single tariff - with Central Freight Association Tariff No. 260-B, Agent Jones' I.C.C. No. 3084. The joint form of publication has since been continued, the current issue being Central Freight Association No. 260-D and Canadian Freight Association No. 13-D (those are the numbers which appear in the Exhibit). The present Canadian publishing agent is Mr. G. F. Smith, of 276 St. James St. West, in Montreal. Rule 210 as published

in the current issue is in the exact form in which it was originally published in Canadian Freight Association Tariff No. 13-A, a little more than twenty years ago."

Now, can you tell me why the American railroads would accept your suggestion to box-in the Province of Alberta like that and prevent those rates being applied when we want to receive goods from Essex County over American lines?

MR. EVANS: Now, ask him a question. Don't put the word "box in" in your question. If you ask what the facts are I have no objection.

MR. FRAWLEY: This is no time to feel strongly about the matter. I will just be as calm as I can about what I call the "boxing-in". Do you know why the American roads would concur with you in the making of that rule and thereby deprive themselves of hauling these canned goods from Detroit to Sweet Grass?

A. Well, there is nothing surprising about it at all, Mr. Frawley. The practice of the Canadian railroads is just the same as the practice of the United States railroads. The Canadian railroads, if they can prevent it, are not going to permit the rates in the United States to break-down Canadian rates any more than the railroads in the United States would permit rates in Canada to break-down United States rates. It works both ways.

Q. And you have not got - -

A. The only difference is, they do not have to put a rule in their tariffs like this on traffic going from the United States to the United

States through Canada, because in the United States they are obliged to charge the rate in their tariff, whereas in Canada we are not held to that rigid rule, but we want to see that in this instance, the fifth class rate on canned goods to Calgary of $2.59 is preserved from all shipping points to Calgary.

Q. That is certainly right. Now, Mr. Jefferson, you know that only in a few instances and from a few shipping points that the rate over the Sweet Grass Border would beat the all-Canadian rate. You know that, don't you?

A. All the more reason that it is reasonable.

Q. I am just asking you. You know it is only in the few instances which would apply to points which are relatively close to the American border?

A. That is right.

Q. It probably would apply in the St. Catherines district, Welland and St. Catherines, close to NiagaraFalls, New York?

A. It might.

Q. But we know that it applies from the farther points of Essex County as appears from this Exhibit 136?

A. Yes, sir.

Q. Now, I put it to you, far from being an additional reason, I put it to you that you are pretty unreasonable to prevent the receiver in Alberta from using these American rates in the admittedly few instances in which he could use them. What do

you think of that?

A. I do not think there is anything unreasonable in it at all.

Q. You do not think it is unreasonable to compel the receiver in Calgary through the insertion of this restrictive rule in the American Tariffs, you think there is nothing inimical about making the receiver in Calgary pay $2.59 when he might get it up from over the American roads for $2.40?

A. No, sir, I don't think you or anyone else in Calgary would buy a tin of peas or a tin of any kind of canned goods any cheaper.

Q. And that is the best answer, that it would not matter very much on one tin of peas?

A. We are going to preserve our rates from Montreal and the west without having American rates interfere with them.

Q. You are going to preserve them even if you have to go over to Chicago and say: "Now, you scratch my back this time, and I will scratch yours next time"?

A. I guess they scratched ours first.

(Page 16142 follows)

Q. Now, Mr. Jefferson, is the position of your railway regarding the restricted mixing rule in Western Canada a position of neutrality?

A. We have said so.

Q. That is it, then. It is a matter of indifference to you whether the restrictions are withdrawn or maintained?

A. That is right.

Q. I think Mr. Sinclair, who does not mind being quoted, I am sure---

MR SINCLAIR: Correctly.

THE WITNESS: What do we say in our submission?

MR FRAWLEY: Q. Page 13303, in volume 63.

A. I haven't got it.

Q. No. Now, I will read it to you from here. It is something with respect to which I am sure you have no disagreement. Mr. Sinclair says this in opening his cross-examination of Mr. Darling at page 13303, in volume 63:

> "Mr. Darling, just keeping close to the matter you have been dealing with in regard to the mixing rule, you understand, do you not, or on behalf of Alberta, that the position of the railways, both the Canadian National and Canadian Pacific, in regard to this carload mixing rule is that it is a matter of controversy and that all they wish" --

that is, all the railways wish --

> "is to carry out the desires of the patrons of the railways and they feel that the matter is one which should be brought before the Board if there is any desire to change the existing rule?"

A. That is what we say in Part II, in our outline submission. You have read what we said in our outline submission.

Q. Oh, yes, I have read what has been said. It is

one of neutrality. You take the position, let the people who move the traffic make up their minds, and we will go along in either direction -- something of that sort?

A. They cannot agree among themselves.

Q. That is the position you take; you say they cannot agree. Would the railways lose much revenue if the unrestricted mixing rule, the one that is good enough in Eastern Canada but apparently is not good enough in Western Canada, if that were put in, would you lose much revenue?

A. I do not think we have alleged that we would.

Q. I am just asking you. I don't know that you have alleged it at all. You would not lose much revenue then?

A. I do not know. I have no reason to think we would lose a lot of revenue, because if we did we would probably object to it.

Q. That is right -- just the point I was coming to. So your neutrality is one that is dictated pretty well by your pocketbook?

A. No; our neutrality is dictated by the policy of your own people right in the Province of Alberta.

Q. I suggest to you now -- we must not quarrel about it, Mr. Jefferson -- I suggest that your policy of neutrality is dictated by the fact that you do not think you can defend that iniquitous rule out there, that is all?

A. Not at all. The people in your own province cannot agree on it, Mr. Frawley.

Q. Well, that is what you say; I don't know what---

A. Well, I know it. I can go to Calgary and Edmonton and get different views from different people in the Province of Alberta on that very question.

Q. All right. So you think that because these people out there cannot make up their minds -- there are

differing interests -- you think it is quite all right to allow that mixing rule to remain, which certainly costs the people of Alberta more than it otherwise would?

A. I do not say it costs them more money.

Q. Well, I will put the case to you that just comes to my mind, that milking machines have to be brought into Edmonton at l.c.l. rates by a man who is in the business of buying and selling milking machines to the dairy industry, making his living by it, at l.c.l. rates of over five dollars, whereas if he could put them in a mixed car and move them from Toronto out there he would pay something like two dollars and something?

A. You may find isolated cases of that kind.

Q. I don't know whether or not, it being hardware -- I want to be perfectly fair about it, Mr. Jefferson; as far as milking machines are concerned, probably the milking machines could go in a machine car and be put in a pool car; perhaps that is true; perhaps there may be other considerations rather than the mixing rule. But you know that the existence of the mixing rule does work a hardship in Western Canada, and is largely advocated now by the wholesale distributors and by no one else?

A. You mean for the mixing rule?

Q. Yes; the people who want the present western mixing rule?

A. Where?

Q. The people who now want the present western style mixing rule are the people who operate wholesale warehouses and nobody else?

A. They live in Alberta.

Q. Oh yes, oh yes, they live in Alberta, sure. Now, are you going down the line with the wholesalers as against the rest of the province?

A. No.

THE CHAIRMAN: Mr. Frawley, have the retailers said anything about this?

MR FRAWLEY: As such? Well, I have not made a score of the people who have supported it, Mr. Chairman.

THE CHAIRMAN: The Retail Merchants' Association, for instance---

MR FRAWLEY: The Retail Merchants' Association of Canada have filed a brief expressing themselves very strongly in favour of the removal of the restricted mixing rule in Western Canada.

THE WITNESS: I presume you know, Mr. Frawley, at one time---

THE CHAIRMAN: Does that mean putting Western Canada in the same position as Ontario?

MR FRAWLEY: Yes, sir. That is all we are asking.

THE CHAIRMAN: And you say the Retail Merchants' Association---

MR FRAWLEY: There is a brief filed by the Retail Merchants' Association of Canada on that subject.

MR EVANS: What I cannot understand is how my friend Mr. Frawley is getting so excited with the witness over something when the witness is not taking a position on it.

MR FRAWLEY: It is because he is not taking a position on it that I am, to use your word, excited about it -- which I may say I am not.

Q. Now, Mr. Jefferson, I want to ask you a question about horizontal increases. You may be glad to know I have only one more question.

THE CHAIRMAN: Pardon me a moment. On this very question you have just finished with, what do you want us to do?

MR FRAWLEY: I want the mixing rule as it now is in Western Canada abolished, and I want what Ontario and Quebec have had for years applied to Western Canada.

THE CHAIRMAN: Then later on in your argument you will tell us how far you want us to go toward that end.

MR FRAWLEY: Whether you should merely recommend, or there should be a legislative change? Yes, I will, my lord.

THE CHAIRMAN: All right.

MR FRAWLEY: Q. Mr. Jefferson, let us assume that there is a producer of lumber at Grande Prairie, Alberta -- and there are, as you probably know?

A. Yes, sir.

Q. And that he is shipping lumber to Toronto?

A. Yes, sir.

Q. And let us assume also that there is a producer of lumber at some point on your line west of Chapleau -- Nicholson I think is one of the large stations there, isn't it, or is that the name of the lumber company? It is also the name of the station, isn't it?

A. Nicholson or Sultan -- any of those points.

Q. Now, let us assume that the price in Toronto, in the market to which they are both shipping, increases 20 per cent?

A. Yes, sir.

Q. And let us assume that the costs at Grande Prairie, the producer's costs at Grande Prairie, of getting the lumber out ready for the rails, and also at Nicholson, both increase by 20 per cent?

A. Yes, sir.

Q. Now then, if each producer's freight rate is increased by 20 per cent, then is not the Grande Prairie producer at a greater disadvantage than he was prior to

the increase?

A. With nothing for the railway?

Q. No. I don't know whether you followed me. I simply say, is he not at a greater disadvantage freight-rate-wise---

THE CHAIRMAN: As compared to the man---

MR FRAWLEY: As compared to the man at Nicholson. That is all I am asking.

Q. Don't you agree that he is?

A. Per hundred pounds, yes.

Q. Yes, per hundred pounds. His rate has gone up 20 per cent, and that of the man at Nicholson has gone up 20 per cent; the rate from Grande Prairie was before the increase much greater than the rate from Nicholson?

A. That is right.

Q. Both rates are increased the same percentage?

A. Yes, sir.

Q. By the horizontal percentage increase. I put it to you that the Grande Prairie producer is at a greater disadvantage every way, as far as freight rates are concerned, than he was prior to the increase. He has a harder time to maintain his position in the Toronto market as against the man in Nicholson than before the increase?

A. The man at Grande Prairie has had his rate increased more per hundred pounds than the shipper at Nicholson.

Q. Yes. Now, I say assume the fact that the price at Toronto goes up 20 per cent, that the costs at Grande Prairie go up 20 per cent, and the costs at Nicholson go up 20 per cent. Now, that all takes place before there is this flat horizontal percentage increase, and then there is the increase applied to both of those people, who have both had the increase in costs and the increase

in price, but their freight rate always was more from Grande Prairie than from Nicholson. Suppose it was -- I don't know what it would be -- if it was a dollar from Grande Prairie it might be fifty cents from Nicholson, perhaps?

A. Yes, sir.

Q. Something like that. And then you put 20 per cent on it. Then are you saying that the position of the man in Grande Prairie is not worse before the increase than after?

A. On your assumption he is, but I do not think it is a proper assumption.

THE CHAIRMAN: Q. What is wrong with it?

A. Well, I think the price at Toronto has gone up more than 20 per cent.

MR FRAWLEY: Oh, well! Thank you very much, Mr. Jefferson, that is all.

CROSS-EXAMINED BY MR BARRY:

Q. Just continuing, Mr. Jefferson, with Mr. Frawley's last question with respect to horizontal increases, did you read the evidence of Senator Fogo, who testified for Algoma Steel?

A. No, sir.

THE CHAIRMAN: Who testified for what?

MR BARRY: He appeared on behalf of Algoma Steel.

Q. And did you read the evidence or hear the argument of Mr. Forsyth in Montreal?

A. No, sir.

Q. Well, in line with what Mr. Frawley has said, don't you agree that the extra amount of freight, amounting in some of those cases to millions of an increase, as compared to the competitors in Hamilton, is that much of a drain on the profits of that company, competitivewise?

A. As I said in my direct evidence, so long as the price of the article has gone up by the same percentage or a greater percentage than the increase in freight rates, the more distant shipper is not at any greater disadvantage or as great a disadvantage as he was before the increase in freight rates.

THE CHAIRMAN: Q. The word "disadvantage" is used there; do you mean disadvantage with respect to the producer nearer the market?

A. Yes, sir.

MR BARRY: Q. How do you explain, Mr. Jefferson, then, that the I.C.C. have made these exceptions, if your theory is correct?

A. Well, I am not going to attempt to explain why they made the exceptions, but I have said that the exceptions were made, many of them on application of the railways and many of them initiated by the Commission.

THE CHAIRMAN: Q. Initiated by whom?

A. The Commission.

MR BARRY: Q. You think, then, that when Senator Fogo and Mr. Forsyth and Mr. French of Enamel Heating complained of their position being affected greatly in competition, they are just imagining it?

A. They are only expressing it because their spread per hundred pounds or per ton has been increased from the more distant point to the market than from the near-by producing point to the market, and they naturally say, "Oh, that increase in the difference comes out of my net," but that does not make it not justifiable.

Q. That is where you disagree with the I.C.C. statement that Mr. Smith read to you the other day?

A. Yes, sir.

THE CHAIRMAN: What did that statement say?

MR BARRY: The statement discussed the effects of horizontal increases, Mr. Chairman, to the effect that it destroyed the position of some competitors and made it impossible for them to reach the market, or in effect could at times put them out of business. I am paraphrasing what it said. Now, the first part of the statement Mr. Jefferson agreed with the I.C.C., but he did not agree with the second part, that it could affect them to that extent, that they would not get into the market, or be put out of business.

Q. Mr. Jefferson, would you look at Exhibit 142?

THE CHAIRMAN: What is Exhibit 142 about? What is the exhibit?

MR BARRY: Comparison of rates between Detroit and Buffalo and Bangor, Mr. Chairman, as compared with from Windsor to Saint John.

Q. Now, you have eastbound and westbound there, Mr. Jefferson?

A. Yes, sir.

Q. Now, do you consider that that is a fair comparison of rates simply because they are in similar territory?

A. This exhibit?

Q. Yes.

A. Yes, sir.

Q. Now, is not the westbound rate that you quote not the amount that the railway receives? That is the amount reduced by the Maritime freight rate 20 per cent, isn't it?

A. It is what the shipper pays.

Q. That is true; but that is not what the railway collects?

A. But that is not what I am trying to show. I am trying to show what the shippoer pays. I do not think it

matters what the railway receives, so far as the shipper is concerned in the marketing of his goods.

Q. But what you are interested in is how much the railway gets primarily; you have said that?

A. Naturally.

Q. You are not particularly interested in the competitive position of some persons, because you say we do not have so many railways, and you do not have to worry about them?

A. But we are pointing out in this Exhibit 142 what the shippers pay on eastbound and westbound traffic.

Q. But, Mr. Jefferson, it is not a fair comparison, is it, because you say in the American rate that is all the railway receives?

A. I don't care about that. All I am interested in is what the shipper pays.

Q. That is all you are interested in?

A. In this statement, this exhibit.

Q. That is what I am interested in too.

A. Yes, sir.

Q. But when you compare the total rate received by an American railwaywith that amount, that does not tell the whole story, because the Canadian Pacific receives more than that rate that is shown there?

A. Westbound but not eastbound.

Q. That is true.

A. Yes.

Q. But at least to that extent it is not a fair comparison, then?

A. A fair comparison with what the shipper pays, but maybe not fair with what the railway receives on the west-bound traffic.

THE CHAIRMAN: Q. What difference do you estab-

lish between what the shipper pays and what the railway receives?

A. Well, the point here, Mr. Chairman, is this, that on westbound traffic out of the Maritime Provinces the freight rates---

Q. Oh, you are talking about the Maritime freight rates?

A. Yes, sir. Eastbound traffic, the Maritime Freight Rates Act is not applicable.

Q. The shipper in the case you have in mind pays less than the railway receives?

A. That is right, on westbound traffic.

Q. On westbound traffic?

A. Yes, sir.

MR BARRY: The point I make there, Mr. Chairman, is, the amount shown there is the amount the shipper pays, but it is compared with an American rate which represents the amount that the railway receives.

THE CHAIRMAN: Well, I suppose -- or am I right in supposing -- that in the United States the railway receives what the shipper pays?

MR BARRY: That is right, sir.

THE CHAIRMAN: Whereas in Canada the railway receives what the shipper pays plus something else.

MR BARRY: That is right.

THE WITNESS: That applies to westbound only and not to eastbound. The eastbound part of this statement is both what the shipper pays and what the railway receives.

THE CHAIRMAN: What, then, is your point on this, Mr. Barry, if I may ask?

MR BARRY: That the comparison Mr. Jefferson makes is not a representative one.

THE CHAIRMAN: Well, it represents what he says;

it represents what each pays.

MR BARRY: That is right, sir; but not what the railway receives.

THE CHAIRMAN: You can do what you like to that.

(Page 16154 follows)

MR. BARRY: Q. The comparison is further changed by the fact that railway wages -- a very substantial part of your expenses, are substantially higher in the United States?

A. The expenses may be higher in the United States than in Canada, yes; but the spread over Montreal in this Exhibit, compared with Boston, is so wide that all we are trying to show is the reasonableness of the rates to and from the Maritime Provinces as compared to and from points in New England. Just the spread, that is all.

Q. You are using a reduced rate, which is not what you received, to show the spread westbound.

A. Westbound, yes.

Q. But the average wage for a railway man in the States is $3,500 as compared to $2,700 in Canada?

A. I do not know.

Q. You do not know that figure?

A. No, sir.

THE CHAIRMAN: What is that?

MR. BARRY: The average railway wage in the United States is approximately $3,500, or a little in excess as compared to $2,700 in Canada.

MR. BARRY: Q. Do you know also the eastern freight rates case of 1928 before the Interstate Commerce Commission, when due to special considerations on that line, due to low density of traffic, that a higher rate was allowed on a point from Boston down through to Bangor than on any other part of the district?

A. I do know that these comparisions here that we mentioned were made from Buffalo, Detroit and Minneapolis to Bangor, and from Bangor, Maine, as compared with Boston.

Now, on the Boston rate zone there was a "plus" for the added distance, we will say, beyond Portland, Maine, if you will.

Q. That would also affect the basis of the comparison?

A. Quite so. But look at the big spread with a much shorter distance.

Q. I appreciate that. Now, at Page 56 of your Part II -- and that is referring to horizontal increases -- but before I read, would you give the reasons to the Commission why you could not apply maxima in these increases in order to lessen the effect of them as they do in the Interstate Commerce Commission? Not why you do not, but why you could not?

A. I gave some reasons.

Q. What reasons did you give?

A. I gave them in my direct evidence. I do not know whether they are in this Part II or not, but I gave two or three reasons why.

Q. Why? Would you say in a few words -- not to be all complete -- why you could not do what the Interstate Commerce Commission does?

A. Well, one was: that we considered that a percentage increase or a horizontal increase, if you want to term it that --

THE CHAIRMAN: What was that?

A. Or a horizontal increase, if you want to term it that, is not prejudicial to the long haul shipper.

I have explained that before this afternoon; just so long as the price increases by the same, or a greater percentage than the freight rates.

In the reasons I gave in my direct evidence, I said it was difficult to determine how you would obtain the additional revenue you needed by a lot of exceptions, because you do not know what traffic you handle of every commodity, or to the extent the maxima would come into play.

When you are handling a commodity with a percentage increase subject to a maxima, you must bear in mind -- just because the commodity may take a 20 or 25 per cent increase over the maxima -- and then it doesn't mean that that maxima is always operative. It is only operative where the increases would be more than six or ten cents.

Q. MR. BARRY: Q. You think the Interstate Commerce Commission did not need to do that?

THE CHAIRMAN: It seems to me that Mr. Jefferson has just said something important about the operation of the maxima.

Q. What is that?

A. What I am saying is this: Take an increase of 20 per cent with a maximum of 10 cents per hundred pounds. Now, the maxima does not become operative until the rate paid is over 50 fifty cents.

Q. Over fifty cents.

MR. BARRY: Q. The same conditions you refer to applied in the United States when these increases were granted with a maximum by the Interstate Commerce Commission?

A. That is right.

Q. But they deemed it necessary to put a maxima on primary products, especially on raw materials, in order to justify the impact of the increase?

A. Yes.

Q. But you disagree with that?

A. Yes.

Q. I shall now read the paragraph on Page 56 of Part II, as follows:

"The principal distinction between conditions here and those in the United States lies in the fact that the United States railroads themselves are largely responsble for the practice of establishing exceptions to percentage increases based upon a maximum number of cents per hundred pounds. This, it is submitted, may largely be attributable to the fact that in the United States there are a very large number of small railway systems whose interest lies in maintaining industries already located on their lines or in inducing new industries to locate there in preference to locating on the lines of other railways closer to the principal market."

A. Yes.

Q. Am I to conclude from that paragraph from what you say about Canada, that your railway is not interested in maintaining industries that are located on your line at some distance from the centre of the country?

A. We are interested. Certainly, we are interested.

THE CHAIRMAN: They say:

". . .maintaining industries already located on their lines or in inducing new industries to locate there. . ."

On their lines?

MR. BARRY: That is right. I asked Mr. Jefferson, in view of what he says about the fact that there are only

two railways in Canada, do I conclude that it does not make any difference to you what happens to the industries on your line, because they will just move to another spot on your line anyway?

THE WITNESS: We are interested in any industry on our railway, and we are certain that our horizontal increase would not destroy it.

Q. So what Sir Andrew Rae Duncan said in the Duncan Report would be all imaginary?

A. Yes, sir.

Q. And does not the fact that Ontario and Quebec are not represented here, those who would be least affected by it, while the seven other provinces are represented here, mean anything to you?

A. No, sir, and I think I already said why.

MR. BARRY: That is all.

THE CHAIRMAN: The brief does go on and say that there are relatively few railroads, and therefore competition is not of the same importance.

MR. BARRY: That is right, looking at it from the standpoint of the railway alone.

THE CHAIRMAN: The brief gives it as one of their reasons.

MR. BARRY: From the standpoint of the railway they do not care. They do not have to care.

MR. EVANS: I did not say that. It says they are of the same importance.

THE CHAIRMAN: You are less inclined to care?

MR. BARRY: Since there are only two railways, and they are semi-monopolies, they do not care about these industries which are already affected.

THE CHAIRMAN: They have not got the same competitive points.

COMMISSIONER INNIS: Q. You would concede, I suppose, that the prices of different commodities would rise at different rates; and that in the case of some commodities it would not rise as rapidly as the rates had increased?

A. That might be. But we show the prices of commodities, let us say, from 1939 to date-- I do not know that you can find a commodity that has not increased by a much greater amount than the increase in the freight rates that has been made.

THE CHAIRMAN: Q. What effect has that on the respective positions of the near producer and the far producer?

A. They all go. Everyone has got a higher price?

Q. Yes?

A. And if that price has gone up --

Q. The distant one is paying higher freight than he did before?

A. Per 100 pounds, yes sir.

Q. While the nearer one is paying higher too, but not so much higher?

A. That is right.

Q. But he has that advantage?

A. He has that advantage before.

Q. Before?

A. That if his price has gone up --

Q. Yes; but I am talking about disadvantage over the distant one.

A. If I express it properly in cents per hundred pounds, yes. But if his price has gone up very much more than the freight rates have gone up, he is not as badly off as he was before.

Q. Who are you talking about?

A. The long distant man.

Q. But I am talking about the nearer man. The price is the same for his product as it is for the distant man's product on the market.

A. Yes.

Q. But the distant man is paying more freight than he paid before, and the nearer man is paying more freight, but not so much as he paid before.

A. That is right.

Q. Is there not still an advantage to the nearer over the distant man for the product in the long result?

A. You can put it this way: that the nearer man is making more money than the far away man; but the far away man is not as bad off as he was before the increase took effect.

Q. Yes; but you won't compare them for me in the end results?

A. I beg your pardon.

Q. I say you won't compare them for me in the end results to tell me if I am wrong, and that the nearer man is not a bit better off than the distant man on account of this.

A. No. I say the nearer man may be better off.

Q. That is just what I say.

A. But I say the longer distant man is not as badly off as he was before, if the price has gone up by a greater percentage than the freight rates.

Q. The whole controversy is because of the respective distances?

A. You are going on a measure of profit, are you not?

Q. That is what they are going on, yes.

COMMISSIONER ANGUS: Q. Would you agree that if

one should try to lay down a general principle that was good for all situations, not for one particular increase in prices followed by an increase in freight rates, but more generally, that one would have to say it is a question of examining the facts of each case rather closely to see whether prices have gone up, whether costs had gone up, and whether the railway freight rates going up was a part of that general movement, offsetting another disturbance or adding to it?

A. All that would be taken into consideration if a shipper came to the railways and said: By reason of the increases in rates which have taken place, I cannot afford to ship any more.

It would all be given consideration, but we say that in view of what has happened, the man alone who is further distant from the market than the nearer man, and producing the same goods, he can pay the increase and he is better off than he was, just so long as his increase in price has gone up mucy much more thanh his freight rates.

Q. And if it comes to appealing to the railways, the man has to be able to go so far as to say: I cannot ship any more.

A. Yes, sir.

Q. It is really not a diminution of profits?

A. He has got to prove his case.

Q. Are you not setting the barriers rather high, if he has got to prove: I cannot ship any more?

A. Oh, no. If he shows that he is worse off than he was before, we might give him some consideration. But if we can show that he is better off, I do not know why he would need consideration.

---Recess

(Page 16168 follows)

MR. EVANS: Before Mr. Brazier proceeds, and having regard to Mr. Barry's cross examination when he again referred to the question as to who was responsible for originating the scheme for exceptions - -

THE CHAIRMAN: Who was responsible for what?

MR. EVANS: For originating the scheme for exceptions, I wanted to put on the record some references to the Interstate Commerce Commission Cases. We have already discussed in part Ex Parte 74, 58 I.C.C. In that Case the I.C.C. refused to make exceptions.

THE CHAIRMAN: Would you tell me what page of your Brief we were discussing?

MR. EVANS: It is not in our Brief; it is apropos of the discussion whcch raged when Mr. Smith and also Mr. Barry were cross examining Mr. Jefferson.

THE CHAIRMAN: Yes, but I remember there was some particular page in one of the two volumes of your Brief.

MR. EVANS: The one that Mr. Barry was referring to was page 56 of Part 2. I am just discussing paternity at the moment.

At 58 I.C.C. page 220 there is a very substantial amount of discussion as to whether exceptions should be made. In that case the railways did not propose any and in that case the I.C.C., although pressed to do so, did not make any. Then, as Mr. Smith pointed out, there was a case about 1931 where the railways did not make any

exceptions but where the I.C.C. refused the increase.

Now, the first Case where the railways proposed the exceptions and where exceptions of this kind were put into effect was Ex Parte 115, 208 I.C.C. at page 11. I only want to read a paragraph from that. This is a paragraph in the Judgment of the Interstate Commerce Commission describing the applicants' proposal:

> "In the various general proceedings involving horizontal changes in the general rate level in the past two decades, the issues have generally revolved around proposals to apply a uniform percentage increase or reduction to all rates. The present proposals depart from the uniform percentage plan. For the most part an increase of 10% in the present rates is proposed subject to certain maxima and exceptions, and some commodities would be subject to increases of flat amounts instead of percentages, while others would be exempted from any increase, and in still other instances increases are proposed only for the longer hauls, beyond what applicants believe to be the zone of most acute truck competition. As there are also schemes proposed territorially, exceptions prevail in mountain territory "

I say, there is the birth of the exceptions which we have been talking about.

THE CHAIRMAN: Now, I see we have already

had Ex Parte 115?

MR. EVANS: Yes, but we never had any reference to that particular paragraph.

CROSS-EXAMINATION BY MR. BRAZIER

Q. Mr. Jefferson, I presume you will be glad to know that I am the last provincial counsel to discuss these matters with you. To start with, Mr. Jefferson, I have a few general miscellaneous questions I would like to discuss with you before going on with my principal cross-examination. You will recall that during the 30 Percent Case, the railways were asking for a 40-cent per ton increase on coal. That was your original application, I believe?

A. I think so, yes. Yes, that was right.

Q. And it was part of your case in regard to the dire financial necessity of the Canadian Pacific Railway that rates be increased?

A. Yes, sir.

Q. And you were granted by the revision in that case, in the 21 Percent Case, a 25-cent increase on coal?

A. That is right.

Q. Now, I am advised, Mr. Jefferson, that just shortly after you put into effect the 25-cents a ton increase, you reduced the rate on Alberta coal to Vancouver by 85¢. Is that information correct?

A. That may be. I do not recall whether we reduced the rates on coal from Alberta to British

Columbia before or after the 21% increase, but the reduction had nothing to do with the increase.

Q. But at the same time you felt that you could, in spite of your dire financial necessity, decrease that rate by 85¢?

A. The reason for that decrease in the rates on coal from Alberta and Eastern British Columbia to the Coast was to place the rates on a reasonable relationship with the rates from points on the Canadian National Railways to the Pacific Coast.

Q. And had'nt they been in relationship before?

A. No, sir.

Q. What wss your rate prior to that time, do you know?

A. My recollection is that from Drumheller it was around 25-cents per hundred weight, that would be $5.00 a ton.

Q. And what was the rate from the closest Canadian National similar point?

A. I do not recall, but I know it was much lower, but the reduction had nothing to do with the increase; it was merely made to place the mines on the Canadian Pacific Railway in a position to reach the Vancouver market in competition with mines on the Canadian National Railways.

Q. Your rate previous to that though, had been in effect for many years, hadn't it?

A. Yes.

Q. And it was just at that time that you felt it necessary to do that?

A. Not because of the increase, but because we had made up our minds we were going to do it. We had applications to do it for years, but we had always refused to do it, but we finally determined it would be in our own interests to do it.

Q. Has your traffic increased since that time?

A. I would say yes.

Q. You would not have the tonnage figures available at all?

A. No, sir.

Q. Now, the Canadian National made no reduction at that time, nor have they since?

A. No, sir, they would not. If they had increased we might not have had to reduce, but we had to try to place our rates on a reasonable relationship with theirs.

Q. Your traffic in coal from Alberta and Eastern British Columbia points to Vancouver has been increasing considerably in the last few years?

A. I would say so.

Q. Now, there was one other small point, Mr. Jefferson. A few years ago the Canadian Pacific built a branch line from South Penticton to Osoyoos, close to the American border?

A. Yes, sir.

Q. Now, do you grant Osoyoos the same rate as you do Penticton?

A. No, sir.

Q. You charge a differential?

A. Yes, sir.

Q. And that amounts to how much?

A. My recollection is, that when the line was completed and turned over to the railway from the construction company, we applied the Penticton rates plus 2¢ per hundred.

Q. What distance is it from Osoyoos to the connection with the line?

A. From Penticton to the end of the line, I think, is between 20 to 25 miles.

Q. Now, you have another branch in the Okanagan Valley which goes up to Lumby. Do you know that?

A. Yes, sir.

Q. Do you charge a differential on that line?

A. No, sir.

Q. And it is about the same distance, isn't it?

A. That may be.

Q. What was the real purpose of the 2¢ differential on the Osoyoos line?

A. It was an agreement between the railway and the shippers on the Osoyoos branch south of Penticton that we would apply the Penticton rates plus 2¢.

Q. Who were the shippers represented at that time?

A. Who were they?

Q. Yes. My information is that they have been protesting because of this differential for some time?

A. They have been protesting in the last year or two because they now want us to remove the

differential which they agreed to.

Q. I presume some of the shippers who were there agreed to pay the differential?

A. They all agreed to it.

THE CHAIRMAN: They must have some reason for asking you to change it? You say they are asking you to change it?

A. They are asking now, that the differential be removed.

Q. Which they agreed to?

A. Yes, sir.

Q. What reasons are they giving for having it removed now?

A. The reason is to obtain a lower freight rate. They now want to place their rates on the same basis as Penticton or what their mileage would give them on the Penticton basis.

Q. A question of competition with Penticton?

A. Yes, sir.

MR. BRAZIER: Is it a usual practice of the railway to give the same rates in areas such as we are speaking of now, when they are protesting - common practice?

A. In the main it is. This was a special arrangement with the people south of Penticton when that line was built and taken over.

COMMISSIONER INNIS: What would be the character of that arrangement; that is to say, was it a matter of calling them together and saying: " "Will you accept this arrangement?" or "Will you agree not to file a complaint to the Board?"?

A. Well, my recollection is that it was letters from the lumber people, from the shippers of fruit and vegetables, through the British Columbia Tree Fruits, and maybe at that time - I don't know whether there was both the British Columbia Tree Fruits and - I have forgotten the name of the other; there were two.

MR. BRAZIER: British Columbia Shipping Federation?

A. Maybe, but that was not the name I had in mind. There were two sorts of industries in the fruit producing industry, and then they were merged into the British Columbia Tree Fruits who took over all.

COMMISSIONER INNIS: Would not there be documents?

A. No, letters from them to the railway saying that they were prepared to pay the Penticton rates plus 2¢ per hundred if we would complete the line and take it over from the construction company. They wanted the service of the railway. They did not have it before; there was no railway there.

Q. It is not a comparable sort of thing to an agreed charge?

A. No, sir, nothing in tariff form - merely that the tariffs were published on the basis agreed on between the railway and shippers in that area.

Q. But there must be a contract of some sort, and presumably the contract woukd come in the form of these letters?

A. Yes, you would consider letters as a contract.

MR. EVANS: There would be no enforcement contract.

COMMISSIONER INNIS: That is what I was wondering.

MR. BRAZIER: Would you have that letter from the British Columbia Tree Fruits?

A. My recollection is that we had one.

Q. Can you check up tomorrow and find it?

A. We would have it in Montreal.

MR. EVANS: What was it you meant by it, Mr. Brazier. Is it important?

MR. BRAZIER: No, not if it is going to be any trouble to get it.

THE CHAIRMAN: These shippers had no alternative means of shipping? They are confined to the railway anyway?

MR. EVANS: They used to ship down there by truck, and my understanding is that they were most anxious to have this railway built, and, as Mr. Jefferson has just said, in order to get this railway built they made this agreement that if the railway were built and finished, they would consent to a 2¢ charge over the rate to Penticton, but it is not an enforceable contract.

MR. BRAZIER: Actually, Mr. Jefferson, your line is at South Penticton?

A. Yes, sir.

Q. And you have to switch both to Penticton and to Osoyoos?

A. From South Penticton, yes, but this agreement (call it an agreement, if you will) the

shippers in that area were trucking their goods to South Penticton and the Penticton rates plus 2¢ reduced their transportation charges.

Q. Now, on a somewhat similar matter, Mr. Jefferson, are you aware of the fact that last spring Mr. Ham of the Express Company went out to the Okanagan Valley in regard to the revision of express rates on stoned fruits, cherries, and soft fruits?

A. I know he went out there, yes, but I don't know what he did.

Q. You don't know what he did?

A. No, sir.

Q. You know that as a result of that new rates were published?

A. Yes.

THE CHAIRMAN: You are talking of express rates?

MR. BRAZIER: Yes, and subsequently would it be true to say there was some sort of a similar agreement at that time that the fruit people were satisfied with the rates that were finally published?

A. I don't know.

(Page 16182 follows)

Q. You know that subsequently a similar arrangement was made or discussion held and new rates published for fruit in Ontario?

A. Express rates?

Q. Express rates?

A. I don't know.

Q. You are not particularly familiar with that?

A. I am not familiar with any changes in express rates. All I know is that Mr. Ham was working on changes in express rates, but what he did I do not know.

Q. What I was going to put to you was this: My information is that while the Okanagan fruit growers were satisfied with the rates that were finally published, they subsequently found out that much lower rates had been granted to the shippers in Ontario, and that they have been complaining about it ever since?

A. I have no knowledge of it at all.

Q. You have no knowledge of it?

A. No, sir.

THE CHAIRMAN: What market is involved there? The eastern market?

MR BRAZIER: The Ontario points would be the eastern, and from B.C. would be---

THE CHAIRMAN: I mean your B.C. people.

MR BRAZIER: No, they would go with the soft fruits, I suppose, as far as Winnipeg, express.

THE WITNESS: I would think so.

MR BRAZIER: I would think that would be probably the limit of the express shipments of early fruit.

THE CHAIRMAN: So there is not a common market, then, betweeen them.

MR BRAZIER: No.

THE CHAIRMAN: Only they feel they are paying

more to get to their market than they ought to, because the producers of like products in Ontario pay less.

MR BRAZIER: That is right.

Q. Now, Mr. Jefferson, the passenger department is under your jurisdiction at the present time?

A. Yes, sir.

Q. Do you know whether you lost any money on your passenger trafiic last year, and if so how much?

A. No, sir.

THE CHAIRMAN: Q. You do not know?

A. No, sir, I do not know.

Q. Whether they lost or not?

A. No, sir.

MR BRAZIER: Q. Do you know of the previous year?

A. No, sir.

Q. And the company -- I think this is the tenor of Mr. Walker's evidence, too -- the company does not bother to find out what the loss of the passenger traffic is?

A. Well, I don't know that I would express it that we do not bother; we haven't the figures.

Q. Well, you have never seen figures showing the loss on your passenger traffic?

A. No, sir.

THE CHAIRMAN: There is no segregation of accounting -- is that it? Is that what you mean, Mr. Brazier?

MR BRAZIER: Well, I think that is probably the cause of it.

Q. But you were able to work out the loss on the passenger traffic in Western Canada?

A. We were able to?

Q MR BRAZIER: Probably I could get that after, my lord.

Q. But the table in your brief shows a loss on pas-

senger traffic in Western Canada of a substantial amount of money each year?

A. What table? I don't know, Mr. Brazier.

MR BRAZIER: Well, we will look it up.

MR EVANS: That is at page 186, and that is---

THE CHAIRMAN: Which volume?

MR EVANS: At page 186 of Part I, and that is getting into forbidden ground, but I have no objection.

MR BRAZIER: That is not the one I am referring to, Mr. Evans.

MR EVANS: Well, the deficiency in revenue on passenger train service---

THE CHAIRMAN: Did you say page 186?

MR EVANS: Page 186, yes.

MR BRAZIER: Page 185, my lord; there is a section there, "Contribution to passenger deficit", which reads:

> "In the calculations made, the passenger portion of the expenses was eliminated in a manner comparable to that used in recent presentations before the Board of Transport Commissioners. The apportionment of the expenses to passenger train service in Western Canada during 1948 has shown a deficiency of revenue under expenses for this service of $18,555,654."

THE CHAIRMAN: Does this presentation before the Board confine itself to the western traffic?

MR EVANS: No, sir. What they did before the Board was this: The Board asked us to make a statistical breakdown showing the loss in passenger traffic, and apparently in this study the people who were making this grain study used a similar method of breaking down the statistical basis to show what the loss in passenger

traffic was, and I suppose they could divide that at Fort William.

THE CHAIRMAN: Divide it at Fort William?

MR EVANS: Yes.

THE CHAIRMAN: You mean they divide it in two at Fort William?

MR EVANS: Yes. It is quite easy. When we did this---

THE CHAIRMAN: Then do you mean to say that the total deficiency in these revenues would be about $37,000,000?

MR EVANS: Oh, I do not think that follows at all, sir.

THE CHAIRMAN: It does not; I see. Well, you say you divide it in two at Fort William. You say that in Western Canada during 1948 it has shown a deficiency of revenues under expenses for this service of $18,555,000.

MR EVANS: Yes.

THE CHAIRMAN: Now, that is west.

MR EVANS: Yes.

THE CHAIRMAN: Now, what about the east?

MR EVANS: I do not know what that is, but I can give your lordship how this was done, because that refers to the method pursued when we were before the Board of Transport Commissioners.

THE CHAIRMAN: Is there any difficulty in establishing what your losses were in the whole of Canada? -- if there was a loss, I mean.

MR EVANS: There is no way that you can establish it. You can only approximate---

THE CHAIRMAN: You have established a deficiency here down to the dollar -- six hundred and fifty-four

dollars.

MR EVANS: Yes, but that does not defeat what I am about to say to you. As we showed to the Board, these arbitrary and statistical separations can be made, and they were made for the Board.

THE CHAIRMAN: Between what?

MR EVANS: Between passenger and freight, and between Eastern and Western Canada; and all I assume is that the people who made this study did a similar calculation for passenger traffic in Western Canada.

MR BRAZIER: Might I point out---

THE CHAIRMAN: Well, is there any reason why we might not know what, if any, deficiency there is in passenger traffic on the railways in the whole of Canada year by year?

MR EVANS: If the Commission would like a statistical---

THE CHAIRMAN: I do not know why the railways would object.

MR EVANS: We do not.

THE CHAIRMAN: If there is a deficiency.

MR EVANS: We do not; we do not object at all. All we say is that we do not keep our accounts so that this is broken down in the way the I.C.C. breaks it down. We will be quite happy, if the Commission desires it, to give a statistical division for passenger and freight services, as we did for the Board. We never refused to do it there; we only warned everybody in connection with it that the allocations were arbitrary.

THE CHAIRMAN: Yes, I understand that.

MR EVANS: That is all. We have no objection to it, if the Commission wants it.

THE CHAIRMAN: Well, it seems to me it is an

important part of the whole subject, isn't it?

MR EVANS: Except that no one has told us what we are to do with it when we do file it.

THE CHAIRMAN: I know, but it is well that we should know.

MR BRAZIER: I would submit you cannot find a solution to the problem until you know what the problem is, or the magnitude of the problem you have to meet.

MR EVANS: If the Commission wants me to do it I will be very glad to have it done, and if you would mention the year you would like it for I will see what is available. I doubt that I could do it for 1949.

COMMISSIONER INNIS: Do I infer from what you say, Mr. Evans, that the arbitrary character of the breakdown would make it of limited value?

MR EVANS: That is our own view; but it will approximate as nearly as we can the method pursued by the Interstate Commerce Commission. The reason I make that distinction is this, that in the accounting system followed by the Interstate Commerce Commission the accounts are so kept that the allocations are made as the expenses are incurred and put directly into the account. In our case we do not do that, in a great many cases. Some things are directly allocable. These have to be done on a statistical basis, and I will be glad to show you or the Commission the kind of exhibit we filed in the 21% Case, because we have them in the hotel.

THE CHAIRMAN: Well, I am in part induced to that consideration by the fact that you yourselves at this page 185 in the first volume of your brief take the trouble to devote a chapter to it. You call it "Contribution to Passenger Deficit". You say:

"It is recognized that this condition" --

that is, the deficiency condition --

"is not unusual among railroads on this continent and that this deficiency in the contribution of passenger train revenues must be made up from freight revenue."

MR EVANS: Yes.

THE CHAIRMAN: Then it seems to me it is an important element.

MR EVANS: I am not objecting to it, sir. The one objection we have on this question of division, passenger and freight, we do object -- and we think we have good reason -- to going to the accounting expense of breaking it down the way the I.C.C. does.

THE CHAIRMAN: Well, perhaps this is not the time to ask you to do that; but, as I say, you bring certain figures down to the very dollar. You advise me now, of course, to be careful, because that is an arbitrary system of division, but then you do allege from that that this deficiency must be made up from freight revenue.

MR EVANS: Exactly.

THE CHAIRMAN: Well, I think, then, we ought to know more about it.

MR EVANS: We will be very happy to do it.

THE CHAIRMAN: Not only Western Canada, but the whole of it.

MR BRAZIER: I might point out to your lordship that at page 116 of the Appendix to Part I, the statement there shows in detail how they arrive at that figure.

Q. Are you familiar with that table at all?

A. No, sir.

Q. It would be Mr. Liddy, I suppose, who would be responsible for the preparation of that, would it?

A. I had nothing to do with making it up, sir.

MR EVANS: We were preparing to call our research

department people and the accounting people who made this cost study of grain, which would have included this, but we were told not to call them, so I have not pursued it with them at all.

THE CHAIRMAN: You were told not to call them?

MR EVANS: Yes, we were asked not to call witnesses on this grain study, and this is tied up with that.

THE CHAIRMAN: Oh, you mean on the Crows Nest Pass?

MR EVANS: Yes. This is tied up with that.

THE CHAIRMAN: Is it so necessarily tied up with that?

MR EVANS: Well, they had to arrive at that figure in order to get the final figure.

THE CHAIRMAN: Well, you will be speaking to this later, I suppose.

MR EVANS: I am going to have this done for 1948.

MR BRAZIER: Q. Mr. Jefferson, the Canadaan railways continue to charge a higher standard passenger rate in the Province of British Columbia than they do in the rest of Canada?

A. Yes, sir.

THE CHAIRMAN: What is that?

MR BRAZIER: They charge a higher passenger rate, standard passenger rate, in British Columbia than in the rest of Canada.

Q. It is half a cent a mile more, I believe, in British Columbia?

A. I do not know the exact difference, but I think in the standard fare it is half a cent higher per mile.

Q. And it is higher on coach fares too?

A. Coach?

Q. Yes?

. Yes, but maybe not the same amount; but it is higher.

Q. I think you are right there.

A. Yes, sir.

Q. Now, are you of the opinion that the railways are still justified in maintaining that differential?

A. Yes, sir.

Q. Why?

A. Well, I don't know that we want to go all through the mountain differential case now, but if you want me to say what I think, I say we are entitled to higher rates in the mountains than elsewhere in Canada.

Q. You would say the Board of Transport Commissioners was wrong in its recent judgment?

A. I think they were wrong.

Q. Yes?

A. I think so.

Q. You do not feel impelled to accept their decision as far as freight rates are concerned and apply it to the passenger fares?

A. No, sir.

Q. And I think you are of the same opinion, then, as Mr. Walker, that you do not intend to eliminate that differential?

A. That is right.

Q. Do you know how much in the way of revenue that differential---

THE CHAIRMAN: You said Mr. Walker; did you mean Mr. Jefferson?

MR BRAZIER: No -- Mr. Walker, the Chairman; he made the same statement, I think, when he was on the stand.

Q. Do you know what that differential amounts to in

revenue for the Canadian Pacific Railway in one year?

A. No, sir; I haven't anything here.

Q. It would not be charged to people who were travelling say from Montreal to Vancouver, would it?

A. No, sir.

Q. They travel through the mountains the same as the local residents of British Columbia do?

A. They may travel cheaper. You see, when you get into transcontinental---

Q. Not only do they charge cheaper, but there is no differential?

A. No, but the point is this, that when you are talking of transcontinental passenger fares, you have the fare from we will say Montreal or Toronto to Vancouver, that cannot be higher than it would cost to go through Detroit, Chicago and St.Paul, and for that reason the fare is not on what you call a mileage basis; it is a fare that does not exceed the aggregate of local fares through the United States.

Q. Have the American passenger rates been increased at all recently?

A. Oh, yes, they have been increased, yes, sir.

Q. And you increased the transcontinental passenger rates at the same time?

A. That is right.

Q. Going to another subject, Mr. Jefferson, in your evidence the other day you spoke of your inability to get the American railroads to agree to through joint rates on fertilizer from the Trail plant?

A. Yes, sir.

MR SINCLAIR: What page is that?

MR BRAZIER: I haven't got the page right here.

Q. But generally you said that you had difficulty

in getting them to agree?

A. That is right.

Q. Why would they refuse to agree?

A. Well, I explained at the time that it was because they have a lot of similar plants in the United States which they want to protect in reaching the United States markets.

Q. It was not because of the fact that the rates on fertilizer from Consolidated Mining and Smelting were too low at all, in their opinion?

A. Oh, no. You see, we have through rates on fertilizer commodities from Warfield to points in Oregon and California, but when you get over in the eastern -- I don't mean eastern United States, but over in the eastern part of the west like into Montana, North and South Dakota, Wisconsin, Iowa, Illinois and Nebraska, the United States railroads will not agree to what we consider is a fair rate from Warfield, having regard -- we are not asking them to consider anything unreasonable, but having regard to the rates that they have within their own country.

Q. Would they be higher than you have from Warfield or lower?

A. No, they are lower. That is why we want lower rates from Warfield. They won't join in them.

Q. The American rates are still lower?

A. Oh, yes.

Q. How is that going to affect the competitive position of the American plants, if the American rates are lower than the joint through rates which you are requesting the American railroads to establish?

A. Maybe I misled you. The rates today are higher than the rates in the United States, but we are asking for rates comparable with rates within the United States.

THE CHAIRMAN: We will adjourn now.

---The Commission adjourned at 4:45 p.m., to meet on Thursday, February 23, 1950.